

# **GST UPDATE**

## **(October, 2019)**

**Directorate of Training, Excise and Taxation Department, Punjab**

## **ABSTRACT OF GST UPDATE**

<b>Sr. No.</b>	<b>Subject</b>	<b>Page No.</b>
I.	<b><u>GIST OF GST NOTIFICATIONS</u></b>	<b>01</b>
II.	<b><u>PUNJAB GST NOTIFICATIONS/ORDERS</u></b>	<b>09</b>
III.	<b><u>CENTRAL TAX NOTIFICATIONS</u></b>	<b>48</b>
IV.	<b><u>CGST CIRCULARS</u></b>	<b>61</b>
V.	<b><u>ADVANCE RULINGS</u></b>	<b>92</b>
VI.	<b><u>COURT ORDERS/ JUDGEMENTS</u></b>	<b>98</b>

# CONTENTS

Sr. No. Subject Page No.

**I GIST OF GST NOTIFICATIONS**

01

**II PUNJAB GST NOTIFICATIONS/ORDERS**

1	No. S.O.110/P.A.5/2017/Ss. 9 and 15/Amd./2019, dt 24th October, 2019	09
2	No.S.O.111/P.A.5/2017/S.11/Amd./2019, dt 24th October, 2019	12
3	No.S.O.112/P.A.5/2017/S.11/Amd./2019, dt 24th October, 2019	13
4	No. S.O.113/P.A.5/2017/S.11/Amd./2019, dt 24th October, 2019	15
5	No.S.O.114/P.A.5/2017/Ss. 9, 11 and 16/Amd./2019, dt 24th October, 2019	16
6	No. S.O.115/P.A.5/2017/S.11/2019, dt 24th October, 2019	17
7	No. S.O.117/P.A.5/2017/S.148/2019, dt 29th October, 2019	18
8	No.S.O.118/P.A.5/2017/Ss. 9, 11, 15 and 16/Amd./2019, dt 24th October, 2019	19
9	No. S.O.119/P.A.5/2017/S.11/Amd./2019, dt 24th October, 2019	24
10	No.S.O.120/P.A.5/2017/S.9/Amd./2019, dt 24th October, 2019	27
11	No. S.O. 121/P.A.5/2017/S.148/Amd./2019, dt 24th October, 2019	32
12	No. S.O.122/P.A.5/2017/S.9/Amd./2019, dt 24th October, 2019	33
13	No. S.O.123/P.A.5/2017/S.7/2019, dt 24th October, 2019	34
14	No. G.S.R.42/P.A.5/2017/S.164/Amd.(31)/2019, dt 29th October, 2019	35

**III CENTRAL TAX NOTIFICATIONS**

1	44/2019-Central Tax ,dt. 09-10-2019	Seeks to prescribe the due date for furnishing of return in FORM GSTR-3B for the months of October, 2019 to March, 2020.	48
2	45/2019-Central Tax ,dt. 09-10-2019	Seeks to prescribe the due date for furnishing FORM GSTR-1 for registered persons having aggregate turnover of up to 1.5 crore rupees for the quarters from October, 2019 to March, 2020.	49
3	46/2019-Central Tax ,dt. 09-10-2019	Seeks to prescribe the due date for furnishing of return in FORM GSTR-1 for registered persons having aggregate turnover more than 1.5 crore rupees for the months of October, 2019 to March, 2020.	50
4	47/2019-Central Tax ,dt. 09-10-2019	Seeks to make filing of annual return under section 44 (1) of CGST Act for F.Y. 2017-18 and 2018-19 optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date.	51
5	48/2019-Central Tax ,dt. 09-10-2019	Seeks to amend notification No. 41/2019 – Central Tax, dated the 31st August, 2019.	52

Sr. No. Subject Page No.

6	49/2019-Central Tax ,dt. 09-10-2019	Seeks to carry out changes in the CGST Rules, 2017.	54
7	50/2019-Central Tax ,dt. 24-10-2019	Seeks to extend the last date for filing of FORM GST CMP-08 for the quarter July-September 2019 by four days from 18.10.2019 till 22.10.2019.	59
8	51/2019-Central Tax ,dt. 31-10-2019	Seeks to amend notification no. 2/2017- Central Tax in order to notify jurisdiction of Jammu Commissionerate over UT of J&K and UT of Ladakh	60

#### IV CGST CIRCULARS

1	110/2019, dt 03-10-2019	Seeks to clarify the eligibility to file a refund application in FORM GST RFD-01 for a period and category.	61
2	111/2019, dt 03-10-2019	Seeks to clarify procedure to claim refund in FORM GST RFD-01 subsequent to favourable order in appeal or any other forum.	63
3	112/2019, dt 03-10-2019	Seeks to withdraw Circular No. 105/24/2019-GST dated 28.06.2019.	65
4	113/2019, dt 11-10-2019	Clarification regarding GST rates & classification (goods) Circular-reg.	66
5	114/2019, dt 11-10-2019	Clarification on scope of support services to exploration, mining or drilling of petroleum crude or natural gas or both.	73
6	115/2019, dt 11-10-2019	Clarification on issue of GST on Airport levies.	76
7	116/2019, dt 11-10-2019	Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts by individual donors.	79
8	117/2019, dt 11-10-2019	Clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India.	81
9	118/2019, dt 11-10-2019	Clarification regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry.	83
10	119/2019, dt 11-10-2019	Clarification regarding taxability of supply of securities under Securities Lending Scheme, 1997.	85
11	120/2019, dt 11-10-2019	Clarification on the effective date of explanation inserted in notification No. 11/2017- CTR dated 28.06.2017, Sr. No. 3(vi).	88
12	121/2019, dt 11-10-2019	Clarification related to supply of grant of alcoholic liquor license.	90

#### V ADVANCE RULINGS

1	Advance Ruling No. GST-ARA-19/2019-20/B-108 Dated 04/10/2019	GST not payable on recovery of 50% Insurance Premium from employees	92
---	--	---	----

2	Advance Ruling No. GST-ARA-16/2019-20/B-109 Dated 04/10/2019	GST on fees from MCGM for Operating Citizen Facilitation/Collection Centres	92
3	Advance Ruling No. GST-ARA -17/2019-20/B-107 Dated 04/10/2019	GST on supply, erection, installation, commissioning and testing of UPS system for DMRC	93
4	Advance Ruling No. GST-ARA- 09/2019-20/B-105 Dated 04/10/2019	GST payable on amount collected by Rotary club for convenience of members	93
5	Advance Ruling No. GST-ARA-12/2019-20/B-106 Dated 04/10/2019	GST payable on Receipt of prize money from horse race conducting entities	94
6	Advance Ruling No. GST-ARA-15/2019-20/B Dated 04/10/2019	No GST on Adoption Fees received from Adoptive Parents by Trust under Adoption Law	94
7	Advance Ruling No. KER/67/2019 Dated 12/10/2019	PVC Tufted Coir Mats & Matting cannot be considered as textile of coir and floor coverings	94
8	Advance Ruling No. KER/63/2019 Dated 12/10/2019	Bentonite powder used for earthing purpose is taxable @18% GST	95
9	Advance Ruling No. KER/62/2019 Dated 15/10/2019	GST on design, realisation, integration & commissioning of Wind Tunnel for ISRO	95
10	Order No. 29/WBAAR/2019-20 Dated 21/10/2019	TDS under GST on supply of solid waste conservancy service to a municipality	96
11	Order No. 28/WBAAR/2019-20 Dated 21/10/2019	Whether co-owners of a jointly held property are liable to pay tax as AOP	96
12	Order No. 30/WBAAR/2019-20 Dated 21/10/2019	Whether supply of stores in foreign going vessels is export under GST	97

## VI COURT ORDERS/JUDGEMENTS

1	Criminal Application No. 8 of 2019 Dated 07/10/2019	Duty Free Shops at International Airport exempt from GST: HC	98
2	R/Special Civil Application No. 15107 of 2019 Dated 10/10/2019	Confiscation of conveyance & goods – Hearing / passing of speaking order mandatory	100
3	Special Civil Application No. 7061 of 2019 Dated 11/10/2019	Detention of goods merely for handwritten & Photocopied transport receipt is Illegal	100
4	Special Civil Application No. 16901 of 2019 Dated 18/10/2019	Detention of conveyance in absence of discrepancy in E Way Bill or Tax Invoice not sustainable	102
5	Civil Appeal Nos. 8276-8277 of 2019 Dated 25/10/2019	Delay In Filing VAT Appeal to High Court can be condoned: SC	102

## **(I) GIST OF GST NOTIFICATIONS**

### **1. Extension of Applicability of GSTR-3B till March 2020**

CBIC has extended the applicability of GSTR-3B for all assesees till March 2020. Post which New Return scheme is proposed.

<b>Return</b>	<b>Due Date</b>
<b>GSTR-3B - All Assesseees to whom it is applicable</b>	20th of the Succeeding Month.
<b><i>Payment of Tax , Interest, Penalty, Fees or any other amount payable under GST which requires debiting of Electronic Cash Ledger</i></b>	20th of the Succeeding Month.

[Notification no 44/2019- Central Tax Dated 9th October, 2019]

### **2. Due Dates for GSTR-1 in case of Monthly and Quarterly Filing till March 2020**

It may also be noted that time limit for furnishing return u/s 38(2) i.e GSTR-2 has

<b>Type of Assesses</b>	<b>Months/ Quarters</b>	<b>Due Date</b>
Registered persons having <b>Aggregate turnover of up to INR 1.5 Cr</b> in the preceding financial year or the current financial year <b>and have opted for Quarterly filing of Return</b>	Oct 2019 – Dec 2019	31 <sup>st</sup> Jan 2020
	January 2020 – March 2020	30 <sup>th</sup> April 2020
Registered persons <b>having Aggregate turnover of more than INR 1.5 cr</b> in the preceding financial year or the current financial year,	Each of Month from October 2019 to March 2020	11 <sup>th</sup> of the succeeding month.

also been extended till further Notification but the same has not been done for return u/s 39 i.e GSTR-3.

[Notification no 45/2019, 46/2019- Central Tax Dated 9th October, 2019]

### **3. Annual Return for Registered persons whose aggregate turnover in a financial year does not exceed two crore rupees**

As per the last GST Council Meeting recommendations, filing of GSTR-9 was made optional in case of Registered person whose aggregate turnover in a financial year does not exceed two crore rupees. **However, there are various sections of GST Act**

which get triggered from the due date of filing of Annual Return. For Instance, time limit for Availment of ITC, Issue of Credit Notes, Period of Retention of Accounts, Issue of Order u/s 73 & 74 etc. Thus, CBIC issued Notification No. 47/2019- Central Tax Dated 9th October, 2019 whereby it was deemed that Annual return for aforementioned persons shall be deemed to be furnished on the due date if it has not been furnished before the due date.

**[Notification no 47/2019- Central Tax Dated 9th October, 2019]**

**4. Extension of Due Dates of Filing GSTR-1 / 3B / 7 for J & K**

The registered person whose **principal place of business is in the state of Jammu & Kashmir**, having aggregate turnover more than Rs. 1.5 crore in preceding financial year or in current financial year, following return’s due date under GST have been extended.

<b>Sr. No.</b>	<b>Form No.</b>	<b>For the Period</b>	<b>Due Date</b>
1.	GSTR-1	July & August 2019	11 <sup>th</sup> October 2019
2.	GSTR-3B	July & August 2019	20 <sup>th</sup> October 2019
3.	GSTR-7	July & August 2019	10 <sup>th</sup> October 2019

**[Notification no 48/2019-Central Tax Dated 9 October, 2019]**

**5. Amendment in GST Rules**

**A. Capping of Input Tax Credit upto 20% of Eligible Credit**

In line with GST Council’s decision of 37th Council meeting on capping input tax credit, Sub Rule 4 to Rule 36 of the CGST Rules, 2017 has been inserted which makes it mandatory to review Input Tax Credit as appearing in GSTR-2A of the taxpayer. It mandates that the taxpayer shall not avail ITC in excess of 20% of the eligible credit available in GSTR-2A over and above the eligible credit.

For achieving this, the taxpayer has to conduct monthly reconciliation of input with GSTR-2A and then avail the input accordingly (maximum capped to 120% of eligible credit available) in GSTR-3B.

Modus Operandi of above:

Suppose a taxpayer is filing GSTR-3B regularly where outward supplies and input tax credit is claimed and taxes are paid on summary basis. The taxpayer has invoices and debit notes relating to inputs/ input services/ capital goods amounting to Rs. 500,000/-. However, eligible input tax credit appearing in GSTR-2A is Rs 400,000/-. Prior to applicability of this notification, the taxpayer could have claimed the entire Rs 500,000 based on his own records. However, now this provisional ITC claim cannot exceed Rs 480,000. [Rs 400,000 + 20% of eligible credit of Rs 400,000]

**The above amendment has led to opening of various issues like;**

1. How to avail ITC of vendors who are in Quarterly Scheme? Do we need to wait for three months before actual avilment of ITC?
2. It will mandate monthly reconciliation of GSTR-2A which itself is quite a task.
3. Whether ITC would be available for entries where the supplier has uploaded the data or submitted the return but not filed the same?
4. GSTR-3B needs to be suitably amended to show avilment of missing credit claimed (i.e. 20%) separately.
5. It is not clear upto when this 20% credit claimed would continue and after which it would be added to the output tax liability. In the proposed return process, it was T+2 post which credit was required to added to output tax liability. However, no such period is provided in the aforesaid notification.

All these are important questions as excess avilment of ITC will lead to penal interest @ 24% p.a. This clause requires more robust infrastructure on the part of the GSTN. Industry would require more breather time to implement the above clause. It is recommended that the Government may bring the circular in this respect to clarify the doubts asap.

**B. GSTR-3B to be considered as GSTR-3: Retrospective Amendment from 1st July, 2017**

There has been a long standing debate that GSTR-3B is a statement and not a return in lieu of GSTR-3. In fact, there has been a judgment of Gujarat High Court [AAP & CO., CHARTERED ACCOUNTS THROU AUTHORISED PARTNER VERSUS UNION OF INDIA] confirming the above view.

However, the Government has amended Rule 61(4) of CGST Rules retrospectively from 1<sup>st</sup> July, 2017 and stated that the cases where the due date of GSTR-1 or GSTR-2 has been extended, Monthly return u/s 39(1) shall be filed in GSTR-3B.

This will pose an issue for assessee who have claimed credit of FY 2017-18 after due date of filing return for the month of March 2019 [Removal of Difficulty **Order No. 02/2018 –Central Tax dated 31-12-2018**].

**C. Clarification in case of Suspension of Registration**

An Explanation has been inserted to Rule 21A (3) whereby it is stated that registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2), **shall not make any taxable supply** during the period of suspension and shall not be required to furnish any return under section 39.

It is clarified that for the purposes of this sub-rule, the expression “**shall not make any taxable supply**” shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

Further a new sub-rule 21A (5) has been added where registered person has to issue revised invoice u/s 31(3)(a) and issue First Return u/s 40 after the revocation of suspension for the entire period.

**D. Notice and order for demand of amounts payable under the Act.**

There has been amendment in Rule 142 whereby the proper officer shall, before service of SCN notice u/s 73 or 74, shall communicate the details of any tax, interest and penalty as ascertained by the said officer, in **Part A of FORM GST DRC-01A**.



Where the assessee has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in **Part B of FORM GST DRC-01A**.

#### **E. Other Changes**

1. Rule 83A has been amended which requires **GSTP (Goods & Services Tax Practitioner) who have earlier enrolled as Tax practitioner in the earlier law to pass the exam within 30 months from the appointed date.**

2. Rule 91 has been amended **w.e.f. 24 Sep 2019, whereby refunds will be disbursed basis Consolidated Payment advice.** Thus single authority will be empowered to ensure disbursement of complete refund amount.

3. Rule 97 of **Consumer Welfare Fund** has been amended where it is required that the Committee shall make available to the Board 50 per cent. of the amount credited to the Fund each year, for publicity or consumer awareness on Goods and Services Tax, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty-five crore rupees per annum.

4. Rule 117(1A) of Transitional Provisions has been amended whereby Commissioner on the recommendation of GST Council may extend the date of Filing TRAN-1 not beyond 31 December, 2019 [Earlier it was 31 March, 2019] in respect of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension. Correspondingly the date of TRAN-2 in above cases has been extended to 31 January, 2020.

#### **6. Extension of Due Dates for GST CMP-08**

The due date for FORM GST CMP-08 quarterly return of Composition dealers has been extended from 18-Oct-19 to 22-Oct-19.

**[Notification no 50/2019-Central Tax Dated 24 October, 2019]**

#### **7. Amendment in territorial jurisdiction for the Commissioner of Jammu**

In accordance with Article 370, the territorial jurisdiction for the Commissioner of Jammu has been amended as the "Union territory of Jammu and Kashmir and Union territory of Ladakh"

**[Notification no 51/2019-Central Tax Dated 31 October, 2019]**

#### **8. Clarification on eligibility to file refund application in Form GST RED-01 for period and category under which a NIL refund application has already been filed.**

A registered person who has filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a given period under a particular category, may again apply for refund for the said period under the same category only if he satisfies the following two conditions:

(a) The registered person must have filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a certain period under a particular category; and

(b) No refund claims in FORM GST RFD-01A/RFD-01 must have been filed by the registered person under the same category for any subsequent period.

In all other cases, registered persons shall be allowed to re-apply even if the condition (b) is not satisfied

**[Circular No. 110 / 29/2019-GST dated 03.10.2019]**

### **9. Clarification on procedure for claiming refund in Form GST RFD-01 arising out of favourable order in appeal or any other Forum**

In case a favourable order is received by a registered person in appeal or in any other forum in respect of a refund claim rejected through issuance of an order in FORM GST RFD-06, the registered person would file a fresh refund application under the category "Refund on account of assessment/provisional assessment/appeal/any other order" claiming refund of the amount allowed in appeal or any other forum. Since the amount debited, if any, at the time of filing of the refund application was not re-credited, the registered person shall not be required to debit the said amount again from his electronic credit ledger at the time of filing of the fresh refund application under the category "Refund on account of assessment/provisional assessment/appeal/any other order". The registered person shall be required to give details of the type of the Order (appeal/any other order), Order No., Order date and the Order Issuing Authority. The registered person would also be required to upload a copy of the order of the Appellate or other authority, copy of the refund rejection order in FORM GST RFD 06 issued by the proper officer or such other order against which appeal has been preferred and other related documents.

Upon receipt of the application for refund under the category "Refund on account of assessment/provisional assessment/appeal/any other order" the proper officer would sanction the amount of refund as allowed in appeal or in subsequent forum which was originally rejected and shall make an order in FORM GST RFD 06 and issue payment order in FORM GST RFD 05 accordingly.

**[Circular No. 111 / 30 /2019-GST dated 03.10.2019]**

### **10. Withdrawal of Circular No. 105/24/2019-GST dated 28.06.2019.**

**Circular No. 105/24/2019-GST dated 28.06.2019** clarifying taxability of secondary or post sales discounts under GST has been withdrawn *ab initio* to ensure uniformity in the implementation of provisions of law.

**[Circular No. 112 /31/2019-GST dated 03.10.2019]**

### **11. Clarification regarding GST rates & classification of goods**

- Classification of leguminous vegetables when subjected to mere heat treatment. Leguminous vegetables which are subjected to mere heat treatment for removing moisture, or for softening and puffing or removing the skin, and not subjected to any other processing or addition of any other ingredients such as salt and oil, would be classified under HS code 0713. Such goods if branded and packed in a unit container would attract GST at the rate of 5% [S. No. 25 of **notification No. 1/2017- Central**

**Tax (Rate) dated 28.06.2017**]. In all other cases such goods would be exempted from GST [S. No. 45 of **notification No. 2/2017- Central Tax (Rate) dated 28.06.2017**]. However, if the above dried leguminous vegetable is mixed with other ingredients (such as oil, salt etc) or sold as namkeens then the same would be classified under Sub heading 2106 90 as namkeens, bhujia, chabena and similar edible preparations and attract applicable GST rate.

- Classification and GST rate on almond milk

Almond milk is classified under the residual entry in the tariff item 2202 99 90 and attract GST rate of 18%.

- GST rate on mechanical sprayer

Vide **notification No. 6/2018- Central Tax (Rate), dated 25th January, 2018**, GST at the rate of 12% was prescribed (entry No. 195B I Schedule II of **notification No. 1/2017-Central Tax (Rate) dated 28.6.2017**) Simultaneously, mechanical sprayers were excluded from the ambit of the S. No. 325 of Schedule III.

It is clarified that the S. No. 195B of the Schedule II to **notification No. 1/2017- Central Tax (Rate), dated 28.06.2017** covers “mechanical sprayers” of all types whether or not hand operated (like hand operated sprayer, power operated sprayers, battery operated sprayers, foot sprayer, rocker etc.).

- Taxability of imported stores by Indian Navy

It is clarified that imported stores for use in navy ships are entitled to exemption from GST.

- Exemption of goods imported under lease

- GST rate on parts for the manufacture of solar water heater and system

It is clarified that parts including Solar Evacuated Tube falling under chapter 84, 85 and 94 for the manufacture of solar water heater and system will attract 5% GST.

- GST on parts and accessories suitable for use solely or principally with medical device

Parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment should be classified with the ophthalmic equipment only and shall attract 12%.

It is clarified that 12% IGST would be applicable on the parts and accessories suitable for use solely or principally with a medical device falling under heading 9018, 9019, 9021 or 9022 in terms of Chapter note 2 (b).

**[Circular No. 113 / 32/2019-GST dated 11.10.2019]**

## **12. Clarification on scope of support services to exploration, mining or drilling of petroleum crude or natural gas or both**

It is clarified that the scope of the entry at Sr. 24 (ii) under heading 9986 of **Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017** shall be governed by the explanatory notes to service codes 998621 and 998622 of the Scheme of Classification of Services.

It is further clarified that the scope of the entry at Sr. No. 21 (ia) under heading 9983 of **Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017** inserted with effect from 1st October 2019 vide **Notification No. 20/2019- CT(R) dated 30.09.2019**

shall be governed by the explanatory notes to service codes 998341 and 998343 of the Scheme of

- Classification of Services.

The services which do not fall under the said entries under heading 9983 and 9986 of the said notification shall be classified in their respective headings and taxed accordingly.

**[Circular No. 114 /33/2019-GST dated 11.10.2019]**

### **13. GST on Airport levies**

The airport operators shall pay GST on the Passenger Service Fees (PSF) and User Development Fees (UDF) collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of ST/GST, there is no question of their not paying ST/GST collected by them to the Government.

The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

**[Circular No. 115 / 34/2019-GST dated 11.10.2019]**

### **14. Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts by individual donors.**

When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

**[Circular No. 116 / 35/2019-GST dated 11.10.2019]**

### **14. Applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India.**

The Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST. The exemption is subject to meeting the conditions specified at Sl. No. 66 of the **notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017.**

**[Circular No. 117/ 36/2019-GST dated 11.10.2019]**

**15. Determination of place of supply in case of software/design services related to Electronics Semiconductor and Design Manufacturing (ESDM) industry.**

It is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.

**[Circular No. 118/ 37/2019-GST dated 11.10.2019]**

**16. Taxability of supply of securities under Securities Lending Scheme, 1997.**

For the past period i.e. from 01.07.2017 to 30.09.2019, GST is payable under forward charge by the lender and request may be made by the lender (supplier) to SEBI to disclose the information about borrower for discharging GST under forward charge. The nature of tax payable shall be IGST. However, if the service provider has already paid CGST / SGST / UTGST treating the supply as an intra-state supply, such lenders shall not be required to pay IGST again in lieu of such GST payments already made. With effect from 1st October, 2019, the borrower of securities shall be liable to discharge GST as per Sl. No 16 of **Notification No. 22/2019-Central Tax (Rate) dated 30.09.2019** under reverse charge mechanism (RCM). The nature of GST to be paid shall be IGST under RCM.

**[Circular No. 119/ 38/2019-GST dated 11.10.2019]**

**17. Clarification on the effective date of explanation inserted in notification No. 11/2017- CTR dated 28.06.2017, Sr. No. 3(vi)**

It is clarified that the explanation having been inserted under section 11(3) of the CGST Act, is effective from the inception of the entry at Sl. No. 3(vi) of the **notification No. 11/2017- CTR dated 28.06.2017**, that is 21.09. 2017.

**[Circular No. 120/ 39/2019-GST dated 11.10.2019]**

**18. GST exemption on license fee charged by the States for grant of Liquor licences to vendors**

This special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

**[Circular No. 121/ 40/2019-GST dated 11.10.2019]**

## **(II) PUNJAB GST NOTIFICATIONS/ORDERS**

PUNJAB GOVT. GAZ. (EXTRA), NOVEMBER 14, 2019 553  
(KRTK 23, 1941 SAKA)

### **PART III**

#### **GOVERNMENT OF PUNJAB**

DEPARTMENT OF EXCISE AND TAXATION

(EXCISE AND TAXATION II-BRANCH)

#### **NOTIFICATION**

The 24th October, 2019

**No. S.O.110/P.A.5/2017/Ss. 9 and 15/Amd./2019.-** In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No.S.O.16/P.A.5/2017/S.9/2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

#### **AMENDMENT**

In the said notification, -

(A) in Schedule I @ 2.5%, -

(i) S. No. 33A and the entries relating thereto shall be omitted;

(ii) against S. No. 164, in the entry in column (3), after item ii, the following item shall be inserted, namely: -

“iii. Marine Fuel 0.5% (FO)”;

(iii) against S. No. 224, for the entry in column (2), the entry “63 [other than 6305 32 00, 6305 33 00, 6309], shall be substituted;

(iv) after S. No. 234B and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“234C	8509	Wet grinder consisting of stone as grinder”;
-------	------	--

(v) S. Nos. 235 to 242 and the entries related thereto, shall be omitted;

(B) in Schedule II @ 6%, -

(i) after S. No. 80A and entries relating thereto, the following S. No. and entries shall be inserted namely: -

“80AA	3923 or 6305	Woven and non-woven bags and sacks of polyethylene or polypropylene strips or the like, whether or not laminated, of a kind used for packing of goods”;
-------	--------------	---

- (ii) S. No. 201A and the entries relating thereto shall be omitted;
- (iii) after S. No. 205 and the entries relating thereto, the following S. Nos. and entries shall be inserted, namely: -

“205A	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
205B	8602	Other rail locomotives; locomotive tenders; such as Diesel-electric locomotives, Steam locomotives and tenders thereof
205C	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
205D	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, track liners, testing coaches and track inspection vehicles)
205E	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)
205F	8606	Railway or tramway goods vans and wagons, not self-propelled
205G	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof
205H	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing”;

- (iv) against S. No. 231B, in column (3), after the words “Slide fasteners”, the words “and parts thereof”, shall be inserted;
- (C) in Schedule III @ 9%, -
- (i). against S. No. 24A, in column (3), after the words “coconut water”, the words “and caffeinated beverages” shall be inserted;
- (ii). against S. No. 108, in column (3), after the words “other closures, of plastics”, the brackets, words, letters and figures “(except the items covered in Sl. No. 80AA in Schedule II), shall be inserted;
- (iii). in S. No. 400, for the entry in column (3), the entry, “Following motor vehicles of length not exceeding 4000 mm, namely: -
- (a) Petrol, Liquefied petroleum gases (LPG) or compressed natural gas (CNG) driven vehicles of engine capacity not exceeding 1200cc; and

- (b) Diesel driven vehicles of engine capacity not exceeding 1500 for persons with orthopedic physical disability, subject to the condition that an officer not below the rank of Deputy Secretary to the Government of India in the Department of Heavy Industries certifies that the said goods shall be used by the persons with orthopedic physical disability in accordance with the guidelines issued by the said Department”, shall be substituted;
- (iv). S. No. 446 and the entries relating thereto shall be omitted;
- (D) in Schedule IV @ 14%, -
- (i). after S. No. 12 and the entries relating thereto, the following S. No. and the entries shall be inserted, namely: -

“12A.	22029990	Caffeinated Beverages”;
-------	----------	-------------------------

- (E) in Schedule V @ 1.5%, -
- (i). S. No. 3 and the entries relating thereto shall be omitted;
- (ii). S. No. 4 and the entries relating thereto shall be omitted;
- (F) in Schedule VI @ 0.125%, -
- (i) in S. No. 2, for the entry in column (3), the entry, “precious stones (other than diamonds) and semi-precious stones, whether or not worked or graded but not strung, mounted or set; ungraded precious stones (other than diamonds) and semi-precious stones, temporarily strung for convenience of transport”, shall be substituted;
- (ii) S. No. 2A and the entries relating thereto shall be omitted;
- (iii) in S. No. 3, for the entry in column (3), the entry, “Synthetic or reconstructed precious or semiprecious stones, whether or not worked or graded but not strung, mounted or set; ungraded synthetic or reconstructed precious or semiprecious stones, temporarily strung for convenience of transport”, shall be substituted;
- (iv) S. No. 4 and the entries relating thereto, shall be omitted;
2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 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 II-BRANCH)

**NOTIFICATION**

The 24th October, 2019

**No.S.O.111/P.A.5/2017/S.11/Amd./2019.-** In exercise of the powers conferred by sub-sections (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 the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No.S.O.18/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, in the Schedule, -

- (i) after S. No. 57 and the entries relating thereto, the following serial number and the entries shall be inserted, namely: -

“57A	0813	Tamarind dried”;
------	------	------------------

- (ii) after S. No. 114B and the entries relating thereto, the following serial number and the entries shall be inserted, namely: -

“114C	46	Plates and cups made up of all kinds of leaves/ flowers/bark”;
-------	----	--

2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 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 II-BRANCH)

**NOTIFICATION**

The 24th October, 2019

**No.S.O.112/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 the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No.S.O.27/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 TABLE, against S. No. 1, in column (3), after item (5), the following item shall be inserted, namely: -

“(6) Petroleum operations or coal bed methane operations undertaken under specified contracts under the Hydrocarbon Exploration Licensing Policy (HELP) or Open Acreage Licensing Policy (OALP)”;

(ii) in the ANNEXURE, against Condition No. 1, in clause (e), the following proviso shall be inserted, namely: -

“**Provided** that where the said goods so supplied are sought to be disposed of in non-serviceable form, after mutilation, the recipient of outward supply or the transferee, as the case may be, may at his option, pay the tax at the rate of 9 per cent on transaction value of such goods subject to the condition that the recipient of outward supply or the transferee, as the case may be, produces before the Deputy Commissioner of Central tax or the Assistant Commissioner of Central tax or the Deputy Commissioner of State tax or the Assistant Commissioner of State tax, as the case may be, having jurisdiction over the supplier of goods, a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the said goods are non-serviceable and have been mutilated before disposal.”.

2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 2019.

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

*1904/11-2019/Pb. Govt. Press, S.A.S. Nagar*

**PART III**

**GOVERNMENT OF PUNJAB**

**DEPARTMENT OF EXCISE AND TAXATION**

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

**NOTIFICATION**

The 24th October, 2019

**No. S.O.113/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 the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O. 20/P.A.5/2017/S.11/2019, dated the 28th February, 2019, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 6th March, 2019, namely:-

**AMENDMENT**

In the said notification, -

- (i) for the word “gold”, wherever it occurs, the words, “gold, silver or platinum”, shall be substituted;
- (ii) in the opening paragraph, for the word and figures, “heading 7108”, the word and figures, “Chapter 71”, shall be substituted;
- (iii) in the Explanation, for clause (d), the following clause shall be substituted, namely:—  
“(d) “Chapter” means heading as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).”.

2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 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 II-BRANCH)**

**NOTIFICATION**

The 24th October, 2019

**No.S.O.114/P.A.5/2017/Ss. 9, 11 and 16/Amd./2019.**-In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (1) of section 16 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017) (herein after referred to as the “said Act”), and all other powers enabling him in this behalf, the Governor of Punjab, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No.S.O.32/P.A.5/2017/Ss. 9, 11 and 16/2019, dated the 08th April, 2019, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 11th April, 2019, namely:-

**AMENDMENT**

In the said notification, in the Annexure, after Sl. No. 2 and the entries thereto, the following Sl. No. and entries shall be inserted, namely: -

“2A.	2202 10 10	Aerated Water”;
------	------------	-----------------

This notification shall be deemed to have come into force on and with effect from the 1st day of October, 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 II-BRANCH)**

**NOTIFICATION**

The 24th October, 2019

**No. S.O.115/P.A.5/2017/S.11/2019.-** 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 exempt all the goods supplied to the Food and Agricultural Organisation of the United Nations (FAO) for execution of projects listed below in the Annexure, from whole of the State Tax leviable thereon under section 9 of the said Act, subject to the condition that an officer not below the rank of Deputy Secretary to the Government of India in the Ministry of Ministry of Agriculture and Farmers Welfare certifies, namely:-

- (i) the quantity and description of the goods; and
- (ii) that the said goods are intended for the purpose of use in execution of said projects.

**ANNEXURE**

- (1) Strengthening Capacities for Nutrition-sensitive Agriculture and Food systems,
  - (2) Green Ag: Transforming Indian Agriculture for Global Environment benefits and the conservation of Critical Biodiversity and Forest landscape.
2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 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 II-BRANCH)

**NOTIFICATION**

The 29th October, 2019

**No. S.O.117/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) (hereinafter referred to as the said Act), and all other powers enabling him in this behalf, the Governor of Punjab, on the recommendations of the Council, is pleased to notify the registered persons required to furnish the details of challans in **FORM ITC-04** under sub-rule (3) of rule 45 of the Punjab Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), read with section 143 of the said Act, as the class of registered persons who shall follow the special procedure such that the said persons shall not be required to furnish **FORM ITC-04** under sub-rule (3) of rule 45 of the said rules for the period July, 2017 to March, 2019:

Provided that the said persons shall furnish the details of all the challans in respect of goods dispatched to a job worker in the period July, 2017 to March, 2019 but not received from a job worker or not supplied from the place of business of the job worker as on the 31st March, 2019, in serial number 4 of **FORM ITC-04** for the quarter April-June, 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 II-BRANCH)**

**NOTIFICATION**

The 24th October, 2019

**No.S.O.118/P.A.5/2017/Ss. 9, 11, 15 and 16/Amd./2019.-** In exercise of the powers conferred by sub-sections (1), (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No.S.O.17/P.A.5/2017/S.9, 11, 15 and 16/2017, 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 Table, -
- (a) against serial number 7, for the entries relating thereto in column (3), (4) and (5), the following items and entries shall be substituted, namely, -

(3)	(4)	(5)
“(i) Supply of ‘hotel accommodation’ having value of supply of a unit of accommodation above one thousand rupees but less than or equal to seven thousand five hundred rupees per unit per day or equivalent.	6	-
(ii) Supply of ‘restaurant service’ other than at ‘specified premises’	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
(iii) Supply of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken



		[Please refer to <i>Explanation</i> no. (iv)]
(iv) Supply of 'outdoor catering', at premises other than 'specified premises' provided by any person other than-	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken
(a) suppliers providing 'hotel accommodation' at 'specified premises', or		[Please refer to
(b) suppliers located in 'specified premises'.		<i>Explanation (iv)</i> ]
(v) Composite supply of 'outdoor catering' together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) at premises other than 'specified premises' provided by any person other than-	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken
(a) suppliers providing 'hotel accommodation' at 'specified premises', or		[Please refer to
(b) suppliers located in 'specified premises'.		<i>Explanation (iv)</i> ]
(vi) Accommodation, food and beverage services other than (i) to (v) above		
Explanation:		
(a) For the removal of doubt, it is hereby clarified that, supplies covered by items (ii), (iii), (iv) and (v) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5), which is a mandatory rate and shall not be levied at the rate as specified under this entry.		
(b) This entry covers supply of 'restaurant service' at 'specified premises'		
(c) This entry covers supply of 'hotel accommodation' having value of supply of a unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.	9	-";
(d) This entry covers supply of 'outdoor catering', provided by suppliers providing 'hotel accommodation' at 'specified premises', or suppliers located in 'specified premises'.		
(e) This entry covers composite supply of 'outdoor catering' together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) provided by suppliers providing 'hotel		

accommodation' at 'specified premises', or suppliers located in 'specified premises'.

- (b) against serial number 10, in column (2), after the word "vehicles", the words "with operators" shall be inserted;
- (c) against serial number 10, in column (3), in item (iii), the words "or without" shall be omitted;
- (d) against serial number 15, in column (3), item (iv) and the entries relating thereto in column (4) and (5) shall be omitted;
- (e) against serial number 15, in column (3), in item (vii), the brackets and words ", (iv)" shall be omitted;
- (f) against serial number 17, in column (2), the figures and words ", with or" shall be omitted;
- (g) against serial number 17, in column (3), item (v) and (vii) and the entries relating thereto in column (4) and (5) shall be omitted;
- (h) against serial number 17, in column (3), for item (viii), the following shall be substituted;

(3)
"(viii) Leasing or rental services, without operator, other than (i), (ii), (iii), (iv), (vi), and (vii) above."

- (i) against serial number 21, after item (i) in column (3) and the entries relating thereto in columns (3), (4) and (5), the following shall be inserted, namely: -

(3)	(4)	(5)
"(ia) Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both	6	-";

- (j) against serial number 21, in column (3), in item (ii), for the brackets and words "(i) above", the brackets and words "(i) and (ia) above" shall be substituted;
- (k) against serial number 24, in column (2), after the numbers "9986", the brackets, words and figures "(Support services to agriculture, hunting, forestry, fishing, mining and utilities)" shall be inserted;
- (l) against serial number 24, in column (3), in item (ii), for the words "Service of", the words "Support services to" shall be substituted;
- (m) against serial number 26, in column (3), in item (i), in clause (c), after the words "products", the figures and words ", other than diamonds," shall be inserted;
- (n) against serial number 26, in column (3), after item (ia) and the entries relating thereto in

columns (3), (4) and (5), the following shall be inserted, namely: -

(3)	(4)	(5)
(ib) Services by way of job work in relation to diamonds falling under chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);	0.75	-
(ic) Services by way of job work in relation to bus body building;	9	-
(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;	6	-";

- (o) against serial number 26, in column (3), in item (iv), after the brackets, words and figures “(ia),” the brackets, words and figures “(ib), (ic), (id),” shall be inserted;
- (ii) in the paragraph 2A, the word “registered” shall be omitted;
- (iii) in paragraph 4 relating to explanation, after clause (xxxi), the following clauses shall be inserted, namely:-

“(xxxii) ‘Restaurant service’ means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied.

(xxxiii) ‘Outdoor catering’ means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, at Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature.

(xxxiv) ‘Hotel accommodation’ means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation.

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

(xxxvi) ‘Specified premises’ means premises providing ‘hotel accommodation’ services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.”.

- (iv) in the 'Annexure: Scheme of Classification of Services', annexed to the notification, -
- (a) against serial number 119 to 124, in column (4), for the words "with or without", wherever they occur, the word "with" shall be substituted;
  - (b) against serial number 232 to 240, in column (4), for the words "with or without", wherever they occur, the word "without" shall be substituted."
2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 2019.

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

*1904/11-2019/Pb. Govt. Press, S.A.S. Nagar*

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

**NOTIFICATION**

The 24th October, 2019

**No. S.O.119/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 Government of Punjab, 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 Table, -
- (a) against serial number 7, in the entry in column (3), for the words and brackets, “twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial year”, the following words, brackets and figures shall be substituted, namely, –
- “such amount in the preceding financial year as makes them eligible for exemption from registration under the Central Goods and Services Tax Act, 2017 (12 of 2017)”;
- (b) after serial number 9A and the entries relating thereto, the following shall be inserted namely: -

(1)	(2)	(3)	(4)	(5)
“9AA	Chapter 99	Services provided by and to Fédération International de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India.	Nil	Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.”;

- (c) against serial number 14, in the entry in column (3), after the word ‘below’, the words ‘or equal to’ shall be inserted;
- (d) against serial number 19A, in the entry in column (5), for the figures “2019”, the figures “2020” shall be substituted;
- (e) against serial number 19B, in the entry in column (5), for the figures “2019”, the figures “2020” shall be substituted;
- (f) after serial number 24A and the entries relating thereto, the following serial numbers and entries relating thereto shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“24B	Heading 9967 or Heading 9985	Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.	Nil	Nil”

- (g) after serial number 29A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“29B	Heading 9971 or Heading 9991	Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.	Nil	Nil”;

- (h) against serial number 35, in the entry in column (3), after the entry (q), the words “(r) Bangla Shasya Bima” shall be inserted;

- (i) against serial number 45, in the entries in column (3), for the words and brackets “twenty lakh rupees (ten lakh rupees in case of special category states) in the preceding financial year”, wherever they occur, the following words, brackets and figures shall be substituted, namely, –

“such amount in the preceding financial year as makes them eligible for exemption from registration under the Central Goods and Services Tax Act, 2017 (12 of 2017)”;

(j) after serial number 82 and the entries relating thereto, the following shall be inserted namely: -

(1)	(2)	(3)	(4)	(5)
"82A	Chapter 9996	Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020.	Nil	Nil";

2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 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 II-BRANCH)**

**NOTIFICATION**

The 24th October, 2019

**No.S.O.120/P.A.5/2017/S.9/Amd./2019.-** In exercise of the powers conferred by sub-section (3) of section 9 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No.S.O. 35/P.A.5/2017/S.9/ 2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

**AMENDMENT**

In the said notification, in the Table, -

- (i) for serial number 9 and the entries relating thereto, the following shall be substituted, namely: -

(1)	(2)	(3)	(4)
9.	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the lik taxable territory.	Music company, eproducer or the like, located in the

- (ii) after serial number 9 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
9A	Supply of services by an author by way of transfer or permitting	Author	Publisher located in the taxable



the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.

territory:

Provided that nothing contained in this entry shall apply where, -

(i) the author has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017), and filed a declaration, in the form at Annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on the service specified in column (2), under forward charge in accordance with Section 9 (1) of CGST Act, under forward charge, and to comply with all the provisions of CGST Act, 2017 (12 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he

shall not withdraw the said option within a period of 1 year from the date of exercising such option;

(ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher.

- (iii) after serial number 14 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
"15.	Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate	Any body corporate located in the taxable territory.";

- (iv) after serial number 15 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
"16.	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended.	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.";

2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 2019.

**Annexure I**

**FORM**

(Declaration to be filed by an author for exercising the option to pay tax on the “supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher” under forward charge on or before 31.10.2019 for the option to be effective from 1.11.2019 or before the commencement of any Financial Year for the option to be effective from the commencement of that Financial Year.)

Reference No. \_\_\_\_\_

Date \_\_\_\_\_

To

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(To be addressed to the jurisdictional Commissioner)

1. Name of the author:
2. Address of the author:
3. GSTIN of the author:

**Declaration**

1. I have taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017), and I hereby exercise the option to pay central tax on the service specified against serial No. 9A in column (2) of the Table in the notification No. XX/2019-Central Tax (Rate), supplied by me, under forward charge in accordance with section 9 (1) of CGST Act, and to comply with all the provisions of CGST Act, 2017 (12 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both;
2. I understand that this option, once exercised, shall not be allowed to be changed within a period of 1 year from the date of exercising the option and shall be valid, at least, till the end of Financial Year following the year in which it is made.

Signature \_\_\_\_\_

Name \_\_\_\_\_

GSTIN \_\_\_\_\_

Place \_\_\_\_\_

Date \_\_\_\_\_

**Annexure II**

(Declaration to be made in the invoice by the author exercising the option to pay tax on the “supply of service by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher” under forward charge.)

**Declaration**

I have exercised the option to pay central tax on the service specified against serial No. 9A in column (2) of the Table in the notification No. XX/2019-Central Tax (Rate) under forward charge.

**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 II-BRANCH)

**NOTIFICATION**

The 24th October, 2019

**No. S.O. 121/P.A.5/2017/S.148/Amd./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 make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No.S.O.22 /P.A.5/2017/S.148/2018, dated the 27th February, 2018, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 07th March, 2018,namely:-

**AMENDMENT**

After paragraph 1, the following explanation shall be inserted, namely: -

“Explanation-

Nothing contained in this notification shall apply where development rights are supplied on or after 01.04.2019.”.

2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 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 II-BRANCH)

**NOTIFICATION**

The 24th October, 2019

**No. S.O.122/P.A.5/2017/S.9/Amd./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 make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No.S.O.70/P.A.5/2017/S.9/2019, dated the 06th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 24th June, 2017, namely:-

**AMENDMENT**

In the said notification, in the Table, against serial number 2, for the entry in column (2), the following entry shall be substituted, namely: -

“Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975).”.

2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 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 II-BRANCH)

**NOTIFICATION**

The 24th October, 2019

**No. S.O.123/P.A.5/2017/S.7/2019.-** In exercise of the powers conferred by sub-section (2) of section 7 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 following activities or transactions undertaken by the State Government, shall be treated neither as a supply of goods nor a supply of service, namely:-

“Service by way of grant of liquor licence, against consideration in the form of license fee or application fee or by whatever name it is called.”

2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 2017.

**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 II-BRANCH)

**NOTIFICATION**

The 29th October, 2019

**No. G.S.R.42/P.A.5/2017/S.164/Amd.(31)/2019.-** In exercise of the powers conferred by section 164 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 by the Council, is pleased to make the following rules further to amend the Punjab Goods and Services Tax Rules, 2017, namely:-

**RULES**

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

(2) Save as otherwise provided in these rules, they shall be deemed to have come into force on and with effect from the 28th June, 2019.

2. In the Punjab 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 the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.32/P.A.5/2017/Ss. 9, 11 and 16/2019, dated the 08th April, 2019, published in the Punjab Government (Extraordinary), Part III, dated the 11th April, 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			
				Integrated 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>
		<b>Total</b>		<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  
Date Name of Authorized Signatory  
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 1<sup>st</sup> day of July, 2019, the following form shall be inserted, namely:-

**FORM GST RFD-10 B**  
[See rule 95A]  
**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	HS N Code	Qty.	Value			Integrated Tax	Central Tax	State /UT Tax	Cess	No / Date	HS N Code	Qty.	Taxable Value
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**  
*[See rule 142(2) & 142 (3)]*

**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	Act	Place of supply (POS)	Tax/ Cess	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 - "

**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. 44/2019 – Central Tax**

**New Delhi, the 9<sup>th</sup> October, 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 October, 2019 to March, 2020 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. 20/06/07/2019-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. 45/2019 – Central Tax**

**New Delhi, the 9<sup>th</sup> October, 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**

<b>Sl. No.</b>	<b>Quarter for which details in FORM GSTR-1 are furnished</b>	<b>Time period for furnishing details in FORM GSTR-1</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1	October, 2019 to December, 2019	31 <sup>st</sup> January, 2020
2	January, 2020 to March, 2020	30 <sup>th</sup> April, 2020

3. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 of the said Act, for the months of October, 2019 to March, 2020 shall be subsequently notified in the Official Gazette.

[F. No. 20/06/07/2019-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. 46/2019 – Central Tax**

**New Delhi, the 9<sup>th</sup> October, 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 October, 2019 to March, 2020 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 of the said Act, for the months of October, 2019 to March, 2020 shall be subsequently notified in the Official Gazette.

[F. No. 20/06/07/2019-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. 47/2019 – Central Tax**

**New Delhi, the 9<sup>th</sup> October, 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 those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees and who have not furnished the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules) before the due date, as the class of registered persons who shall, in respect of financial years 2017-18 and 2018-19, follow the special procedure such that the said persons shall have the option to furnish the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the said rules:

Provided that the said return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

[F. No. 20/06/07/2019-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. 48/2019 – Central Tax**

**New Delhi, the 9<sup>th</sup> October, 2019**

G.S.R. (E).- In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 41/2019-Central Tax, dated the 31<sup>st</sup> August, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 618(E), dated the 31<sup>st</sup> August, 2019, namely:–

In the said notification, in the opening paragraph–

(a) in clause (ii), for the figures, letters and word “20<sup>th</sup> September”, the figures, letters and word “11<sup>th</sup> October” shall be inserted;

(b) after the clause (iv), the following clauses shall be inserted, namely: –

“(v) the registered persons whose principal place of business is in the State of Jammu and Kashmir, having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, who have furnished, electronically through the common portal, details of outward supplies in **FORM GSTR-1** of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as the said rules), for the month of August, 2019, on or before the 11<sup>th</sup> October, 2019, for failure to furnish the said **FORM GSTR-1** by the due date;

(vi) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in **FORM GSTR-7** of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, for the month of July, 2019, on or before the 10<sup>th</sup> October, 2019, for failure to furnish the said **FORM GSTR-7** by the due date;

(vii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in **FORM GSTR-7** of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, for the month of August, 2019, on or before the 10<sup>th</sup> October, 2019, for failure to furnish the said **FORM GSTR-7** by the due date;

(viii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in **FORM GSTR-3B** of the said rules, for the month of July, 2019, on or before the 20<sup>th</sup> October, 2019, for failure to furnish the said **FORM GSTR-3B** by the due date;

(ix) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in **FORM GSTR-3B** of the said rules, for the month of August, 2019, on or before the 20<sup>th</sup> October, 2019, for failure to furnish the said **FORM GSTR-3B** by the due date.”.

[F. No. 20/06/07/2019-GST]

(Ruchi Bisht)  
Under Secretary to the Government of India

Note: The principal notification No. 41/2019 – Central Tax, dated the 31<sup>st</sup> August, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 618(E), dated the 31<sup>st</sup> August, 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. 49/2019 – Central Tax**

**New Delhi, the 9<sup>th</sup> October, 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 (Sixth Amendment) Rules, 2019.

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

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 21A,-

(a) in sub-rule (3), the following explanation shall be inserted, namely:-

**“Explanation.**-For the purposes of this sub-rule, the expression “shall not make any taxable supply” shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.”;

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

“(5) Where any order having the effect of revocation of suspension of registration has been passed, the provisions of clause (a) of sub-section (3) of section 31 and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.”.

3. In the said rules, in rule 36, after sub-rule (3), the following sub-rule shall be inserted, namely:-

“(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.”.

4. In the said rules, in rule 61,-

(a) for sub-rule (5), the following sub-rule shall be substituted, with effect from the 1<sup>st</sup> July, 2017 namely:-

“(5) Where the time limit for furnishing of details in **FORM GSTR-1** under section 37 or in **FORM GSTR-2** under section 38 has been extended, the return specified in sub-section (1) of section 39 shall, in such manner and subject to such conditions as the Commissioner may, by notification, specify, be furnished in **FORM GSTR-3B** electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that where a return in **FORM GSTR-3B** is required to be furnished by a person referred to in sub-rule (1) then such person shall not be required to furnish the return in **FORM GSTR-3**.”;

(b) sub-rule (6) shall be omitted with effect from the 1<sup>st</sup> July, 2017.

5. In the said rules, in rule 83A, in sub-rule (6), for clause (i), the following clause shall be substituted, namely:-

“(i) Every person referred to in clause (b) of sub-rule (1) of rule 83 and who is enrolled as a goods and services tax practitioner under sub-rule (2) of the said rule is required to pass the examination within the period as specified in the second proviso of sub-rule (3) of the said rule.”.

6. In the said rules, in rule 91, -

(a) in sub-rule (3), with effect from the 24<sup>th</sup> September, 2019, after the words “application for refund”, the words “on the basis of a consolidated payment advice:” shall be inserted;

(b) after the sub-rule (3), with effect from the 24<sup>th</sup> September, 2019, the following sub-rule shall be inserted, namely:-

“(4) The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (3).”.

7. In the said rules, in rule 97, -

(a) after sub-rule (7), with effect from the 1<sup>st</sup> July, 2017, the following sub-rule shall be inserted, namely,-

“(7A) The Committee shall make available to the Board 50 per cent. of the amount credited to the Fund each year, for publicity or consumer awareness on Goods and Services Tax, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty-five crore rupees per annum.”;

(b) in sub-rule (8), with effect from the 1<sup>st</sup> July, 2017, clause (e) shall be omitted.

8. In the said rules, in rule 117, -

(a) in sub-rule (1A) for the figures, letters and word “31st March, 2019”, the figures, letters and word “31st December, 2019” shall be substituted.

(b) in sub-rule (4), in clause (b), in sub-clause (iii), in the proviso for the figures, letters and word “30th April, 2019”, the figures, letters and word “31st January, 2020” , shall be substituted.

9. In the said rules, in rule 142, -

(a) after sub-rule (1) the following sub-rule shall be inserted, namely:-

“(1A) The proper officer shall, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74, as the case may be, shall communicate the details of any tax, interest and penalty as ascertained by the said officer, in **Part A of FORM GST DRC-01A.**”;

(b) in sub-rule (2), after the words “in accordance with the provisions of the Act”, the words, figures and brackets “, whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A),” shall be inserted;

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

“(2A) Where the person referred to in sub-rule (1A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in **Part B of FORM GST DRC-01A.**” .

10. In the said rules, after **FORM GST DRC-01**, the following form shall be inserted, namely:-

<b>“FORM GST DRC-01A</b>					
<b>Intimation of tax ascertained as being payable under section 73(5)/74(5)</b>					
<b>[See Rule 142 (1A)]</b>					
<b>Part A</b>					
No.:					Date:
Case ID No.					
To					
GSTIN.....					
...Name.....					
.....					
Address.....					
...					
<b><i>Sub.: Case Proceeding Reference No.....- Intimation of liability under section 73(5)/section 74(5) – reg.</i></b>					
Please refer to the above proceedings. In this regard, the amount of tax/interest/penalty payable by you under section 73(5) / 74(5) with reference to the said case as ascertained by the undersigned in terms of the available information, as is given below:					
<b>Act</b>	<b>Period</b>	<b>Tax</b>			

<b>CGST Act</b>					
<b>SGST/UTGST Act</b>					
<b>IGST Act</b>					
<b>Cess</b>					
<b>Total</b>					

The grounds and quantification are attached / given below:

You are hereby advised to pay the amount of tax as ascertained above alongwith the amount of applicable interest in full by ..... , failing which Show Cause Notice will be issued under section 73(1).

You are hereby advised to pay the amount of tax as ascertained above alongwith the amount of applicable interest and penalty under section 74(5) by ..... , failing which Show Cause Notice will be issued under section 74(1).

In case you wish to file any submissions against the above ascertainment, the same may be furnished by..... in Part B of this Form

Proper Officer

Signature.....

...

Name.....

...

Designation.....

...

*Upload Attachment*

**Part B**

**Reply to the communication for payment before issue of Show Cause Notice**

[See Rule 142 (2A)]

No.:

Date:

To  
Proper Officer,  
Wing / Jurisdiction.

***Sub.: Case Proceeding Reference No.....- Payment/Submissions in response to liability intimated under Section 73(5)/74(5) – reg.***

Please refer to Intimation ID..... in respect of Case ID.....vide which the liability of tax payable as ascertained under section 73(5) / 74(5) was intimated.

In this regard,

A. this is to inform that the said liability is discharged partially to the extent of Rs. .... through .....and the submissions regarding remaining liability are attached / given below:

**OR**

B. the said liability is not acceptable and the submissions in this regard are attached / given below:

--

Authorised Signatory

Name.....

GSTIN.....

Address.....

**Upload Attachment?**

[F. No. 20/06/07/2019-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 19<sup>th</sup> June, 2017, published *vide* number G.S.R. 610 (E), dated the 19<sup>th</sup> June, 2017 and last amended *vide* notification No. 33/2019 - Central Tax, dated the 18<sup>th</sup> July, 2019, published *vide* number G.S.R. 513 (E), dated the 18<sup>th</sup> July, 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. 50/2019 – Central Tax**

**New Delhi, the 24<sup>th</sup> October, 2019**

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

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

“Provided further that the due date for furnishing the statement containing the details of payment of self-assessed tax in said **FORM GST CMP-08**, for the quarter July, 2019 to September, 2019, or part thereof, shall be the 22<sup>nd</sup> day of October, 2019.”.

2. This notification shall be deemed to have come into force with effect from the 18<sup>th</sup> day of October, 2019.

[F. No. 20/06/07/2019-GST]

(Ruchi Bisht)

Under Secretary to the Government of India

Note: - The principal notification No. 21/2019-Central Tax, dated the 23<sup>rd</sup> April, 2019 was published in the Gazette of India, Extraordinary, vide number G.S.R. 322(E), dated the 23<sup>rd</sup> April, 2019 and was last amended by notification No. 35/2019-Central Tax, dated the 29<sup>th</sup> July, 2019, published in the Gazette of India, Extraordinary, vide number G.S.R. 534(E), dated the 29<sup>th</sup> July, 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. 51/2019 – Central Tax**

**New Delhi, the 31<sup>st</sup> October, 2019**

G.S.R.....(E). - In exercise of the powers under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 02/2017- Central Tax, dated the 19<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 609(E), dated the 19<sup>th</sup> June, 2017, namely:–

In the said notification, in Table II, in column (3), in serial number 51, for the words “State of Jammu and Kashmir”, the words “Union territory of Jammu and Kashmir and Union territory of Ladakh” shall be substituted.

[F. No. 20/06/17/2018 -GST(Pt.I)]

(Ruchi Bisht)  
Under Secretary to the Government of India

Note: - The principal notification No. 02/2017-Central Tax, dated the 19<sup>th</sup> June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 609(E), dated the 19<sup>th</sup> June, 2017 and was last amended by notification No. 04/2019-Central Tax, dated the 29<sup>th</sup> January, 2019, published in the Gazette of India, Extraordinary, vide number G.S.R. 64(E), dated the 29<sup>th</sup> January, 2019.

## **(IV) CGST CIRCULARS**

Circular No. 110/29/2019 - GST

F.No. CBEC – 20/06/03/2019 – GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs  
GST Policy Wing  
\*\*\*\*\*

New Delhi, the 3<sup>rd</sup> October, 2019

To

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

The Principal Director Generals / Director Generals (All)

Madam / Sir,

**Subject: Eligibility to file a refund application in FORM GST RFD-01 for a period and category under which a NIL refund application has already been filed – regarding**

Several registered persons have inadvertently filed a NIL refund claim for a certain period under a particular category on the common portal in **FORM GST RFD-01A/RFD-01** in spite of the fact that they had a genuine claim for refund for that period under the said category. Once a NIL refund claim is filed, the common portal does not allow the registered person to re-file the refund claim for that period under the said category. Representations have been received requesting that registered persons may be allowed to re-file the refund claim for the period and the category under which the NIL claim has inadvertently been filed. The matter has been examined and in order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues raised as below:

2. Whenever a registered person proceeds to claim refund in **FORM GST RFD-01A/RFD-01** under a category for a particular period on the common portal, the system pops up a message box asking whether he wants to apply for ‘NIL’ refund for the selected period. This is to ensure that all refund applications under a particular category are filed chronologically. However, certain registered persons may have inadvertently opted for filing of ‘NIL’ refund. Once a ‘NIL’ refund claim has been filed for a period under a particular category, the common portal does not allow the registered person to re-file the refund claim for that period under the said category.
3. It is now clarified that a registered person who has filed a NIL refund claim in **FORM GST RFD-01A/RFD-01** for a given period under a particular category, may again apply for refund for the said period under the same category only if he satisfies the following two conditions:
  - a. The registered person must have filed a NIL refund claim in **FORM GST RFD-01A/RFD-01** for a certain period under a particular category; and

- b. No refund claims in **FORM GST RFD-01A/RFD-01** must have been filed by the registered person under the same category for any subsequent period.

It may be noted that condition (b) shall apply only for refund claims falling under the following categories:

- i. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;
- ii. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;
- iii. Refund of unutilized ITC on account of accumulation due to inverted tax structure;

In all other cases, registered persons shall be allowed to re-apply even if the condition (b) is not satisfied

4. Registered persons satisfying the above conditions may file the refund claim under “Any Other” category instead of the category under which the NIL refund claim has already been filed. However, the refund claim should pertain to the same period for which the NIL application was filed. The application under the “Any Other” category shall also be accompanied by all the supporting documents which would be required to be otherwise submitted with the refund claim.

5. On receipt of the claim, the proper officer shall calculate the admissible refund amount as per the applicable rules and in the manner detailed in para 3 of Circular No.59/33/2018-GST dated 04.09.2018, wherever applicable. Further, upon scrutiny of the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer in writing, if required, to debit the said amount from his electronic credit ledger through **FORM GST DRC-03**. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05**.

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

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

(Yogendra Garg)  
Principal Commissioner (GST)

\*\*\*\*

Circular No. 111/30/2019 - GST

F.No. CBEC – 20/06/03/2019 – GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs  
GST Policy Wing  
\*\*\*\*\*

New Delhi, the 3<sup>rd</sup> October, 2019

To

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

The Principal Director Generals / Director Generals (All)

Madam / Sir,

**Subject: Procedure to claim refund in FORM GST RFD-01 subsequent to favourable order in appeal or any other forum – regarding**

Doubts have been raised on the procedure to be followed by a registered person to claim refund subsequent to a favourable order in appeal or any other forum against rejection of a refund claim in **FORM GST RFD-06**. The matter has been examined and in order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues raised as below:

2. Appeals against rejection of refund claims are being disposed offline as the electronic module for the same is yet to be made operational. As per rule 93 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”), where an appeal is filed against the rejection of a refund claim, re-crediting of the amount debited from the electronic credit ledger, if any, is not done till the appeal is finally rejected. Therefore, such rejected amount remains debited in respect of the particular refund claim filed in **FORM GST RFD-01**.

3. In case a favourable order is received by a registered person in appeal or in any other forum in respect of a refund claim rejected through issuance of an order in **FORM GST RFD-06**, the registered person would file a fresh refund application under the category “Refund on account of assessment/provisional assessment/appeal/any other order” claiming refund of the amount allowed in appeal or any other forum. Since the amount debited, if any, at the time of filing of the refund application was not re-credited, the registered person shall not be required to debit the said amount again from his electronic credit ledger at the time of filing of the fresh refund application under the category “Refund on account of assessment/provisional assessment/appeal/any other order”. The registered person shall be required to give details of the type of the Order (appeal/any other order), Order No., Order date and the Order Issuing Authority. The registered person would also be required to upload a copy of the order of the Appellate or other authority, copy of the refund rejection order in **FORM GST RFD 06** issued

by the proper officer or such other order against which appeal has been preferred and other related documents.

4. Upon receipt of the application for refund under the category “Refund on account of assessment/provisional assessment/appeal/any other order” the proper officer would sanction the amount of refund as allowed in appeal or in subsequent forum which was originally rejected and shall make an order in **FORM GST RFD 06** and issue payment order in **FORM GST RFD 05** accordingly. The proper officer disposing the application for refund under the category “Refund on account of assessment/provisional assessment/appeal/any other order” shall also ensure re-credit of any amount which remains rejected in the order of the appellate (or any other authority). However, such re-credit shall be made following the guideline as laid down in para 4.2 of Circular no. 59/33/2018 – GST dated 04/09/2018.

5. The above clarifications can be illustrated with the help of an example. Consider a registered person who makes an application for refund of unutilized ITC on account of export to the extent of Rs.100/- and debits the said amount from his electronic credit ledger. The proper officer disposes the application by allowing refund of Rs.70/- and rejecting the refund of Rs. 30/-. However, he does not re-credit Rs.30/- since appeal is preferred by the claimant and accordingly **FORM GST RFD 01B** is not uploaded. Assume that the appellate authority allows refund of only Rs.10/- out of the Rs. 30/- for which the registered person went in appeal. This Rs.10/- shall be claimed afresh under the category “Refund on account of assessment/provisional assessment/appeal/any other order” and processed accordingly. However, subsequent to processing of this claim of Rs.10/- the proper officer shall re-credit Rs.20/- to the electronic credit ledger of the claimant, provided that the registered person is not challenging the order in a higher forum. For this purpose, **FORM GST RFD 01B** under the original ARN which has so far not been uploaded will be uploaded with refund sanctioned amount as Rs.80/- and the amount to be re-credited as Rs. 20/-. In case, the proper officer who rejected the refund claim is not the one who is disposing the application under the category “Refund on account of assessment/provisional assessment/appeal/any other order”, the latter shall communicate to the proper officer who rejected the refund claim to close the ARN as above only after obtaining the undertaking as referred in para 4.2 of Circular no. 59/33/2018 – GST dated 04/09/2018.

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

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

(Yogendra Garg)  
Principal Commissioner (GST)

\*\*\*\*

F.No. CBEC – 20/06/03/2019 – GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs  
GST Policy Wing  
\*\*\*\*\*

New Delhi, the 3<sup>rd</sup> October, 2019

To

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

The Principal Director Generals / Director Generals (All)

Madam / Sir,

**Subject:** Withdrawal of Circular No. 105/24/2019-GST dated 28.06.2019 – **reg.**

Kind attention is invited to Circular No. 105/24/2019-GST dated 28.06.2019 wherein certain clarifications were given in relation to various doubts related to treatment of secondary or post-sales discounts under GST.

2. Numerous representations were received expressing apprehensions on the implications of the said Circular. In view of these apprehensions and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017, hereby withdraws, *ab-initio*, Circular No. 105/24/2019-GST dated 28.06.2019.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. Hindi version will follow.

(Yogendra Garg)  
Principal Commissioner (GST)

\*\*\*\*

Circular No. 113/32/2019-GST

F.No.354/131/2019-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs  
Tax Research Unit  
\*\*\*\*\*

North Block, New Delhi  
Dated, 11<sup>th</sup> October, 2019

To,

Principal Chief Commissioners/ Principal Directors General,  
Chief Commissioners/ Directors General  
Principal Commissioners/ Commissioners  
of Central Tax and Customs

Madam/ Sir,

**Subject: Clarification regarding GST rates & classification (goods)–reg.**

Representations have been received seeking clarification in respect of applicable GST rates on the following items:

- (i) Classification of leguminous vegetables such as grams when subjected to mild heat treatment
- (ii) Almond Milk
- (iii) Applicable GST rate on Mechanical Sprayer
- (iv) Taxability of imported stores by the Indian Navy
- (v) Taxability of goods imported under lease.
- (vi) Applicable GST rate on parts for the manufacture solar water heater and system
- (vii) Applicable GST on parts and accessories suitable for use solely or principally with a medical device

2. The issue wise clarifications are discussed below:

**3. Classification of leguminous vegetables when subject to mild heat treatment (parching):**

3.1. Doubts have been raised whether mild heat treatment of leguminous vegetables (such as gram) would lead to change in classification.

3.2. Dried leguminous vegetables are classified under HS code 0713. As per the explanatory memorandum to the HS 2017, the heading 0713 covers leguminous vegetables of heading 0708 which have been dried, and shelled, of a kind used for human or animal consumption (e.g., peas, chickpeas etc.). They may have undergone moderate heat treatment designed mainly to ensure better preservation by inactivating the enzymes (the peroxidases in particular) and eliminating part of the moisture.

3.3. Thus, it is clarified that such leguminous vegetables which are subjected to mere heat treatment for removing moisture, or for softening and puffing or removing the skin, and not subjecting to any other processing or addition of any other ingredients such as salt and oil, would be classified under HS code 0713. Such goods if branded and packed in a unit container would attract GST at the rate of 5% [S. No. 25 of notification No. 1/2017- Central Tax (Rate) dated 28.06.2017]. In all other cases such goods would be exempted from GST [S. No. 45 of notification No. 2/2017- Central Tax (Rate) dated 28.06.2017].

3.4. However, if the above dried leguminous vegetable is mixed with other ingredients (such as oil, salt etc) or sold as namkeens then the same would be classified under Sub heading 2106 90 as namkeens, bhujia, chabena and similar edible preparations and attract applicable GST rate.

#### **4. Classification and applicable GST rate on Almond Milk:**

4.1. References have been received as to whether “almond milk” would be classified as “Fruit Pulp or fruit juice-based drinks” and attract 12% GST under tariff item 2202 99 20.

4.2. Almond Milk is made by pulverizing almonds in a blender with water and is then strained. As such almond milk neither constitutes any fruit pulp or fruit juice. Therefore, it is not classifiable under tariff item 2202 99 20.

4.3. Almond milk is classified under the residual entry in the tariff item 2202 99 90 and attract GST rate of 18%.

#### **5. Applicable GST rate on Mechanical Sprayer:**

5.1 Representations have been received seeking clarification on the scope and applicable GST rate on “mechanical sprayers” of entry No. 195B of the Schedule II to notification No.



1/2017- Central Tax (Rate), dated 28.06.2017. The entry No. 195B was inserted *vide* notification No. 6/2018- Central Tax (Rate), dated 25<sup>th</sup> January, 2018.

5.2 All goods of heading 8424 i.e. [Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines (other than fire extinguishers, whether or not charged)] attracted GST @18% [S.No.325 of Schedule III] till 25<sup>th</sup> January, 2018. Subsequently, keeping in view various requests/ representations, the GST Council in its 25<sup>th</sup> meeting recommended 12% GST on mechanical sprayers. Accordingly, *vide* amending notification No. 6/2018- Central Tax (Rate), dated 25<sup>th</sup> January, 2018, GST at the rate of 12% was prescribed (entry No. 195B I Schedule II of notification No. 1/2017-Central Tax (Rate) dated 28.6.2017) Simultaneously, mechanical sprayers were excluded from the ambit of the said S. No. 325 of Schedule III.

5.3 Accordingly, it is clarified that the S. No. 195B of the Schedule II to notification No. 1/2017- Central Tax (Rate), dated 28.06.2017 covers “mechanical sprayers” of all types whether or not hand operated (like hand operated sprayer, power operated sprayers, battery operated sprayers, foot sprayer, rocker etc.).

## **6. Clarification regarding taxability of imported stores by the Indian Navy:**

6.1 Representation has been received from the Indian Navy seeking clarification on the taxability of imported stores for use of a ship of Indian Navy.

6.2 Briefly stated, in accordance with letter No. 21/31/63-Cus-IV dated 17 Aug 1966 of the then Department of Revenue and Insurance, the Indian Naval ships were treated as “foreign going vessels” for the purposes of Customs Act, 1962, and the naval personnel serving on board these naval ships were entitled to duty-free supplies of imported stores even when the ships were in Indian harbour. However, in the GST era, no such circular has been issued regarding exemption from IGST on purchase of imported stores by Indian Naval ships. The doubt has arisen as there is a no specific exemption, while there is a specific exemption for the Coast Guard (*vide* S. No. 4 of notification No. 37/2017-Customs dated 30.6.2017). Similar exemption has not been specifically provided for Navy.

6.3 Indian Naval ship stores are exempted from import duty in terms of section 90(1) of the Customs Act, 1962. Further, as per section 90(2), goods “taken on board a ship of the Indian Navy” shall be construed as exported to any place outside India. Also, section 90(1) and 90(3) of the Customs Act, 1962 provides that imported stores for the use of a ship of the Indian Navy and stores supplied free by the Government for the use of the crew of a ship of the Indian Navy in accordance with their conditions of service will be exempted from duty.

6.4 Accordingly, it is clarified that imported stores for use in navy ships are entitled to exemption from GST.

## **7. Clarification regarding taxability of goods imported under lease:**

7.1 Representations have been received seeking clarification on the taxability of goods imported under lease.

7.2 In respect of goods imported on temporary basis, aircrafts, aircraft engines and other aircraft parts imported into India under a transaction covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Service Tax Act, 2017 are exempted from IGST *vide* S. No. 547A of notification No. 50/2017-Customs dated 30.06.2017, subject to condition No. 102, which reads as under :-

*The importer, by the execution of bond, in such form and for such sum as may be specified by the Commissioner of Customs, binds himself, -*

- (i) to pay integrated tax leviable under section 5(1) of the IGST Act, 2017 on supply of service covered by item 1(b) or 5 (f) of Schedule II of the Central Goods and Services Act, 2017;*
- (ii) not to sell or part with the goods, without the prior permission of the Commissioner of Customs of the port of importation;*
- (iii) to re-export the goods within three months of the expiry of the period for which they were supplied under a transaction covered by item 1(b) or 5 (f) of Schedule II of the Central Goods and Services Act, 2017;*
- (iv) to pay on demand an amount equal to the integrated tax payable on the said goods but for the exemption under this notification in the event of violation of any of the above conditions.*

7.3 Similarly, rigs and ancillary items imported for oil or gas exploration and production taken on lease by the importer for use after import have also been exempted from IGST *vide* S. No. 557A of the said notification. Subsequently, all goods, vessels, ships (other than motor vehicles) imported under lease, by the importer for use after import, were also exempted from IGST *vide* S. No. 557B of the said notification. Both these entries are subject to the same condition No. 102 of the said notification.

7.4 The intention of S. No. 557 A and 557 B is to exempt from IGST the imports of goods under an arrangement of supply of service covered by item 1(b) or 5(f) of Schedule II of the CGST Act, 2017 so as to avoid double taxation.

7.5 Accordingly, it is hereby clarified that the expression “taken on lease/imported under lease” (in S. No. 557A and 557B respectively of notification No. 50/2017-Customs dated 30.06.2017) covers imports under an arrangement so as to supply services covered by item 1(b) or 5(f) of Schedule II of the CGST Act, 2017 to avoid double taxation. The above clarification holds for such transactions in the past.

7.6 Further, wordings of S. No. 557A and 557B of notification No. 50/2017-Customs dated 30.6.2017, have been aligned with Condition No. 102 of the said notification [vide notification No. 34/2019-Customs dated 30.09.2019 w.e. f 01.10.2019] to address the concerns raised.

## **8. Applicability of GST rate on parts for the manufacture solar water heater and system:**

8.1 Representations have been received seeking clarification on applicable GST rate on Solar Evacuated Tubes used in manufacture of solar water heater. While 5% GST rate applies to parts used in manufacture of Solar Power based devices (S.No. 234 of Notification No. 1/2017 -Central tax (Rate) dated 28.06.2017), doubts have been raised in respect of parts of Solar water heaters on the ground that Solar Based Devices are being considered only as devices which run on Solar Electricity.

8.2 As per entry No 232, solar water heater and system attracts 5% GST. Further, as per S. No. 234 of the notification No. 1/2017-Central Tax (Rate) dated 28.6.2017, solar power-based devices and parts for their manufacture falling under chapter 84, 85 and 94 attract 5%

concessional GST. Solar Power based devices function on the energy derived from Sun (in form of electricity or heat). Thus, solar water heater and system would also be covered under S. No 234 as solar power device. Thus, Solar Evacuated Tubes which falls under Chapter 84 and other parts falling under chapter 84, 85 and 94, used in manufacture of solar water heater and system would be eligible for 5% GST under S. No. 234.

8.3 Accordingly, it is clarified that parts including Solar Evacuated Tube falling under chapter 84, 85 and 94 for the manufacture of solar water heater and system will attract 5% GST.

**9. Applicability of GST on the parts and accessories suitable for use solely or principally with a medical device:**

9.1 Representations have been received seeking clarification on applicability of GST on the parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment.

9.2 Briefly stated, medical equipment falling under HS 9018, 9019, 9021 and 9022 attract 12% GST. The imports of parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment, were being assessed at 12% GST by classifying it under heading 9018. However, objection has been raised by Comptroller and Auditor General of India (CAG) on the said practice, suggesting that since such goods were not specifically mentioned in the GST rate notification, they fall under tariff item 9033 00 00 [residual entry] and should be assessed at 18% IGST. In this background, representations have been received from trade and industry, seeking clarification in this matter

9.3 The matter has been examined. As per chapter note 2(b) of the Chapter 90, parts and accessories of the instruments used mainly and principally for the medical instrument of chapter 90 shall be classified with the machine only. Chapter note 2(b) (of Chapter 90) reads as below: -

*“2 (b): other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instruments or apparatus, or with a number of machines, instruments or apparatus of the same heading (including a machine, instrument or apparatus of heading 9010, 9013 or 9031) are to be classified with the machines, instruments or apparatus of that kind;”*

9.4 Thus, as per chapter note 2(b), parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment should be classified with the ophthalmic equipment only and shall attract 12%.

9.5 In view of the above, it is clarified that 12% IGST would be applicable on the parts and accessories suitable for use solely or principally with a medical device falling under heading 9018, 9019, 9021 or 9022 in terms of chapter note 2 (b).

10. Difficulty, if any, may be brought to the notice of the Board immediately. Hindi version shall follow.

Yours faithfully,

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

F. No. 354/136/2019-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit  
\*\*\*\*

Room No. 146G, North Block,  
New Delhi, the 11<sup>th</sup> October 2019

To,

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

Madam/Sir,

**Subject: Clarification on scope of support services to exploration, mining or drilling of petroleum crude or natural gas or both – reg.**

Representations have been received from trade seeking clarification on the scope of the entry “*services of exploration, mining or drilling of petroleum crude or natural gas or both*” at Sr. No. 24 (ii) of heading 9986 in Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017.

2. The matter has been examined. Most of the activities associated with exploration, mining or drilling of petroleum crude or natural gas fall under heading 9986. A few services particularly technical and consulting services relating to exploration also fall under heading 9983. Therefore, following entry has been inserted under heading 9983 with effect from 1<sup>st</sup> October 2019 vide Notification No. 20/2019- Central Tax(Rate) dated 30.09.2019; -

“(ia) *Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both*”

3 Explanatory Notes to the Scheme of Classification of Services adopted for the purposes of GST, which is based on the United Nations Central Product Classification describe succinctly the activities associated with exploration, mining or drilling of petroleum crude or natural gas under heading 9983 and 9986.

3.1 The relevant Explanatory Notes for Heading 9983 are as follows:

***998341 Geological and geophysical consulting services***

*This service code includes provision of advice, guidance and operational assistance concerning the location of mineral deposits, oil and gas fields and groundwater by studying the properties of the earth and rock formations and structures; provision of advice with*

*regard to exploration and development of mineral, oil and natural gas properties, including pre-feasibility and feasibility studies; project evaluation services; evaluation of geological, geophysical and geochemical anomalies; surface geological mapping or surveying; providing information on subsurface earth formations by different methods such as seismographic, gravimetric, magnetometric methods & other subsurface surveying methods*

*This service code does not include*

- *test drilling and boring work, cf. 995432*

**998343 Mineral exploration and evaluation**

*This service code includes mineral exploration and evaluation information, obtained on own account basis*

*Note: This intellectual property product may be produced with the intent to sell or license the information to others.*

3.2 The relevant Explanatory Notes for Heading 9986 are as follows:

**998621 Support services to oil and gas extraction**

*This service code includes derrick erection, repair and dismantling services; well casing, cementing, pumping, plugging and abandoning of wells; test drilling and exploration services in connection with petroleum and gas extraction; specialized fire extinguishing services; operation of oil or gas extraction unit on a fee or contract basis*

*This service code does not include:*

- *geological, geophysical and related prospecting and consulting services, cf. 998341*

**998622 Support services to other mining n.e.c.**

*This service code includes draining and pumping of mines; overburden removal and other development and preparation services of mineral properties and sites, including tunneling, except for oil and gas extraction; test drilling services in connection with mining operations, except for oil and gas extraction; operation of other mining units on a fee or contract basis*

*This service code does not include:*

- *mineral exploration and evaluation services, cf. 998343*
- *geophysical services, cf. 998341*

4. It is hereby clarified that the scope of the entry at Sr. 24 (ii) under heading 9986 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 shall be governed by the explanatory notes to service codes 998621 and 998622 of the Scheme of Classification of Services.

4.1 It is further clarified that the scope of the entry at Sr. No. 21 (ia) under heading 9983 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 inserted with effect from 1<sup>st</sup> October 2019 vide Notification No. 20/2019- CT(R) dated 30.09.2019 shall be governed by the explanatory notes to service codes 998341 and 998343 of the Scheme of Classification of Services.

4.2 The services which do not fall under the said entries under heading 9983 and 9986 of the said notification shall be classified in their respective headings and taxed accordingly.

5. Difficulty, if any, in implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Shashikant Mehta  
OSD (TRU)



F. No. 354/136/2019-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit  
\*\*\*\*

Room No. 146G, North Block,  
New Delhi, the 11<sup>th</sup> October 2019

To,

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

Madam/Sir,

**Subject: Clarification on issue of GST on Airport levies – reg.**

Various representations have been received seeking clarification on issues relating to GST on airport levies and to clarify that airport levies do not form part of the value of services provided by the airlines and consequently no GST should be charged by airlines on airport levies. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues in the succeeding paras.

2. Passenger Service Fee (PSF) is charged under rule 88 of Aircraft Rules, 1937 according to which the airport licensee may collect PSF from embarking passengers at such rates as specified by the Central Government. According to the rule the airport license shall utilize the said fee for infrastructure and facilitation of the passengers. User Development Fee (UDF) is levied under rule 89 of the Aircraft rules 1937 which provides that the licensee may levy and collect, at a major airport, the User Development Fee at such rate as may be determined under clause (b) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008.

2.1 Though the rule does not prescribe the specific purpose of levy and whether it is to be charged from the airlines or the passengers. However, it is seen from section 2(n) of Airports Economic Regulatory Authority of India Act, 2008, that the authority which manages the airport is eligible to levy and charge UDF from the embarking passengers at any airport.

2.2 Further, Director General of Civil Aviation has clarified vide order No. AIC Sl. No. 5/2010 dated 13.09.2010 that in order to avoid inconvenience to passengers and for smooth and orderly air transport/airport operations, the User Development Fees (UDF) shall be collected from the passengers by the airlines at the time of issue of air ticket and the same shall be remitted to Airports Authority of India in the line system/procedure in vogue. For

this, collection charges of Rs. 5/- shall be receivable by the airlines from AAI, which shall not to be passed on to the passengers in any manner.

2.3 The above facts clearly indicate that PSF and UDF are charged by airport operators for providing the services to passengers.

2.4 Section 2(31) of the CGST Act states that “consideration” in relation to the supply of goods or services or both includes any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person. Thus, PSF and UDF charged by airport operators are consideration for providing services to passengers.

2.5 Thus, services provided by an airport operator to passengers against consideration in the form of UDF and PSF are liable to GST. UDF was also liable to service tax. It is also clear from notification of Director General of Civil Aviation AIC Sl. No. 5 /2010 dated 13.09.2010, which states that UDF approved by MoCA, GoI is inclusive of service tax. It is also seen from the Air India website that the UDF is inclusive of service tax. Further in order No. AIC S. Nos. 3/2018 and 4/2018, both dated 27.2.2018, it has been laid down that GST is applicable on the charges of UDF and PSF.

2.6 PSF and UDF being charges levied by airport operator for services provided to passengers, are collected by the airlines as an agent and is not a consideration for any service provided by the airlines. Thus, airline is not responsible for payment of ST/GST on UDF or PSF provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules. It is the licensee, that is the airport operator (AAI, DIAL, MIAL etc) which is liable to pay ST/GST on UDF and PSF.

2.7 Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules. Rule 33 of the CGST rules provides that the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely, -

*(i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;*

*(ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and*

*(iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.*

“Pure agent” has been defined to mean a person who-

*(a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both; (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply; (c) does not use for*

*his own interest such goods or services so procured; and (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.*

2.8 Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers. The airline shall not take ITC of GST payable or paid on PSF and UDF. The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator. The amount so recovered will be excluded from the value of supplies made by the airline to its passengers. In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules. The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them.

2.9 The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of ST/GST, there is no question of their not paying ST/GST collected by them to the Government.

2.10 The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

3. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Rachna  
OSD (TRU)  
E-mail: rachna.irs@gov.in  
Tel: 011-23095558

F. No. 354/136/2019-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
(Tax research Unit)  
\*\*\*\*\*

Room No. 146, North Block,  
New Delhi, the 11<sup>th</sup> October, 2019

To:

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

Madam/Sir,

**Subject: Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors– Reg.**

Representations have been received seeking clarification whether GST is applicable on donations or gifts received from individual donors by charitable organisations involved in advancement of religion, spirituality or yoga which is acknowledged by them by placing name plates in the name of the individual donor.

2. The issue has been examined. Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude. When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

2.1 Some examples of cases where there would be no taxable supply are as follows:-

- (a) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.
- (b) "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

2.2. In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus where

all the three conditions are satisfied namely the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement, GST is not leviable.

3. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Susanta Mishra  
Technical Officer (TRU)  
Email: susanta.mishra87@gov.in  
Tel: 011-23095558

F. No. 354/136/2019-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
(Tax research Unit)  
\*\*\*\*\*

Room No. 146, North Block,  
New Delhi, the 11<sup>th</sup> October, 2019

To:

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

Madam/Sir,

**Subject: Clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India – reg.**

A representation has been received regarding applicability of GST exemption to the Directorate General of Shipping approved maritime courses conducted by the Maritime Training Institutes of India. The same has been examined and following is clarified.

2. Under GST Law, vide Sl. No. 66 of the notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, services provided by educational institutions to its students, faculty and staff are exempt from levy of GST. In the above notification, “educational institution” has been defined to mean an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.

3. GST exemption on services supplied by an educational institution would be available, if it fulfils the criteria that the education is provided as part of a curriculum for obtaining a qualification/ degree recognized by law.

4. Section 76 of the Merchant Shipping Act, 1958 (44 of 1958) provides for the certificates of competency to be held by the officers of ships. It states that every Indian ship, when going to sea from any port or place, shall be provided with officers duly certificated under this Act in accordance with such manning scales as may be prescribed. Section 78 of the Act provides for several Grades of certificates of competency. Further, Section 79 provides that the Central Government or a person duly authorised by it shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificate of competency under section 78 of the Act.

5. In order to streamline and monitor the maritime education and trainings by maritime institutes and to administer the assessment agencies, the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014 has been notified. Under Rule 9 of the said Rules, the Director General of Shipping is empowered to designate

assessment centres. Further the provisions of sub- rules (6), (7) and (8) of the Rule 4 of the said Rules, empowers the Director General of Shipping, to approve (i) the training course, (ii) training, examination and assessment programme, and (iii) approved training institute etc.

6. From the above discussion, it is seen that the Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014. Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST. The exemption is subject to meeting the conditions specified at Sl. No. 66 of the notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017.

7. This clarification applies, *mutatis mutandis*, to corresponding entries of respective IGST, UTGST, SGST exemption notifications. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Susanta Mishra  
Technical Officer (TRU)  
Email: susanta.mishra87@gov.in  
Tel: 011-23095558

F. No. 354/136/2019-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit  
\*\*\*\*

Room No. 156, North Block,  
New Delhi, the 11<sup>th</sup> October 2019

To,

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

Madam/Sir,

**Subject: Clarification regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry – reg.**

Various representations have been received from trade and industry seeking clarification on determination of place of supply in case of supply of software/design services by a supplier located in taxable territory to a service recipient located in non-taxable territory by using the sample hardware kits provided by the service recipient.

2. It is stated that a number of companies that are part of the growing Electronics Semi-conductor and Design Manufacturing (ESDM) industry in India are engaged in the process of developing software and designing integrated circuits electronically for customers located overseas. The client/customer electronically provides Indian development and design companies with design requirements and Intellectual Property blocks (“IP blocks”, reusable units of software logic and design layouts that can be combined to form newer designs). Based on these, the Indian company digitally integrates the various IP blocks to develop the software and the silicon or hardware design. These designs are communicated abroad (in industry standard electronic formats) either to the customer or (on behest of the customer) a manufacturing facility for the manufacture of hardware based on such designs.

2.1 In addition, the software developed is also integrated upon or customized to this hardware. On some occasions, samples of such prototype hardware are then provided back to the Indian development and design companies to test and validate the software and design that has been developed to ensure that it is error free.

2.2 The trade has requested clarification on whether provision of hardware prototypes and samples and testing thereon lends these services the character of performance-based services in respect of “goods required to be made physically available by the recipient to the provider”.



3. 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.

4. In contracts where service provider is involved in a composite supply of software development and design for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the service provider. The service provider is not involved in software testing alone as a separate service. The testing of software/design is aimed at improving the quality of software/design and is an ancillary activity. The entire activity needs to be viewed as one supply and accordingly treated for the purposes of taxation. Artificial vivisection of the contract of a composite supply is not provided in law. These cases are fact based and each case should be examined for the nature of supply contracted.

4.1 Therefore, it is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.

5. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

(Harish Y N)  
OSD, TRU-II  
Email: [harish.yn@gov.in](mailto:harish.yn@gov.in)  
Tel: 011 2309 5547

F. No. 354/136/2019-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit  
\*\*\*\*

Room No. 156, North Block,  
New Delhi, the 11<sup>th</sup> October 2019

To,

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

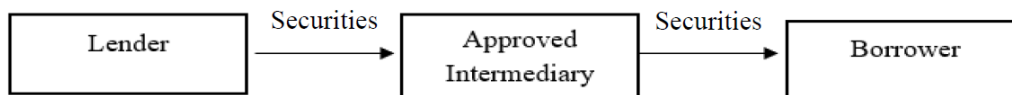
Madam/Sir,

**Subject: Clarification regarding taxability of supply of securities under Securities Lending Scheme, 1997 – reg.**

Trade has requested clarification on whether the supply of securities under Securities Lending Scheme, 1997 (“Scheme”) by the lender is taxable under GST.

2. Securities and Exchange Board of India (SEBI) has prescribed the Securities Lending Scheme, 1997 for the purpose of facilitating lending and borrowing of securities. Under the Scheme, lender of securities lends to a borrower through an approved intermediary to a borrower under an agreement for a specified period with the condition that the borrower will return equivalent securities of the same type or class at the end of the specified period along with the corporate benefits accruing on the securities borrowed. The transaction takes place through an electronic screen-based order matching mechanism provided by the recognised stock exchange in India. There is anonymity between the lender and borrower since there is no direct agreement between them.

2.1 The lenders earn lending fee for lending their securities to the borrowers. The security lending mechanism is depicted in the diagram below: -



2.2 In the above chart:

(i) Lender is a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme.

(ii) Borrower is a person who borrows the securities under the scheme through an approved intermediary.

(iii) Approved intermediary is a person duly registered by the SEBI under the guidelines/scheme through whom the lender will deposit the securities for lending and the borrower will borrow the securities;

3. It may be noted for the purpose of GST Act, “securities” shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 [Section 2(101) of CGST Act]. The definition of services as per Section 2(102) of the CGST Act, is extracted as below: -

*“services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;*

*Explanation.—For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities;*

4. Securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 are not covered in the definition of goods under section 2(52) and services under section 2(102) of the CGST Act. Therefore, a transaction in securities which involves disposal of securities is not a supply in GST and hence not taxable.

4.1 The explanation added to the definition of services w.e.f. 01.02.2019 i.e.” includes facilitating or arranging transactions in securities” is only clarificatory in nature and does not have any bearing on the taxability of the services under discussion (lending of securities) in past since 01.07.2017 but relates to facilitating or arranging transactions in securities.

4.2 The activity of lending of securities is not a transaction in securities as it does not involve disposal of securities. The clause 4 of para 4 relating to the Scheme under the Securities Lending Scheme, 1997 doesn't treat lending of securities as disposal of securities and therefore is not excluded from the definition of services.

4.3 The lender temporarily lends the securities held by him to a borrower and charges lending fee for the same from the borrower. The borrower of securities can further sell or buy these securities and is required to return the lend securities after stipulated period of time. The lending fee charged from the borrowers of securities has the character of consideration and this activity is taxable in GST since 01.07.2017.

4.4 Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately.

5 The supply of lending of securities under the scheme is classifiable under heading 997119 and is leviable to GST@18% under Sl. No. 15(vii) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 as amended from time to time.

5.1 For the past period i.e. from 01.07.2017 to 30.09.2019, GST is payable under forward charge by the lender and request may be made by the lender (supplier) to SEBI to disclose the information about borrower for discharging GST under forward charge. The nature of tax payable shall be IGST. However, if the service provider has already paid CGST / SGST / UTGST treating the supply as an intra-state supply, such lenders shall not be required to pay IGST again in lieu of such GST payments already made.

5.2 With effect from 1<sup>st</sup> October, 2019, the borrower of securities shall be liable to discharge GST as per Sl. No 16 of Notification No. 22/2019-Central Tax (Rate) dated 30.09.2019 under reverse charge mechanism (RCM). The nature of GST to be paid shall be IGST under RCM.

6. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

(Harish Y N)  
OSD, TRU  
Email: [harish.yn@gov.in](mailto:harish.yn@gov.in)  
Tel: 011 2309 5547

F. No. 354/136/2019-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
(Tax research Unit)  
\*\*\*\*\*

Room No. 146G, North Block,  
New Delhi, the 11<sup>th</sup> October 2019

To,

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

Madam/Sir,

**Subject: Clarification on the effective date of explanation inserted in notification No. 11/2017- CTR dated 28.06.2017, Sr. No. 3(vi) – reg.**

Representations have been received to amend the effective date of notification No. 17/2018-CTR dated 26.07.2018 whereby explanation was inserted in notification No. 11/2017-CTR dated 28.06.2017, Sr. No. 3(vi) to the effect that for the purpose of the said entry, the activities or transactions under taken by Government and Local Authority are excluded from the term 'business'.

2. The matter has been examined. Section 11(3) of CGST Act provides that the Government may insert an explanation in any notification issued under section 11, for the purpose of clarifying its scope or applicability, at any time within one year of issue of the notification and every such explanation shall have effect as if it had always been the part of the first such notification.

3. As recommended by GST Council, the explanation in question was inserted vide notification No. 17/2018-CTR dated 26.07.2018 in exercise of powers under section 11(3) within one year of the insertion of the original entry prescribing concessional rate, so that it would have effect from the date of inception of the entry i.e. 21.09.2017. However, like other notifications issued on 26.07.2018 to give effect to other recommendations of the GST Council, the said notification also contained a line in the last paragraph that the notification shall come into effect from 27.07.2018.

4. It is hereby clarified that the explanation having been inserted under section 11(3) of the CGST Act, is effective from the inception of the entry at Sl. No. 3(vi) of the notification No. 11/2017- CTR dated 28.06.2017, that is 21.09. 2017. The line in notification No. 17/2018-CTR

dated 26.07.2018 which states that the notification shall come into effect from 27.07.2017 does not alter the operation of the notification in terms of Section 11(3) as explained in para 3 above.

5. Difficulty, if any, in implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Shashikant Mehta  
OSD (TRU)  
E-mail: shashikant.mehta@gov.in  
Tel: 011-23095547

F. No. 354/136/2019-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax research Unit  
\*\*\*\*

North Block, New Delhi,  
Dated the 11<sup>th</sup> October, 2019

To,

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

Madam/Sir,

**Subject– GST on license fee charged by the States for grant of Liquor licences to vendors-reg.**

Services proved by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Same was the position under Service Tax regime also with effect from 1<sup>st</sup> April, 2016. Tax is required to be paid by the business entities on such services under reverse charge.

2. GST Council in its 26<sup>th</sup> meeting held on 10.03.2018, recommended that GST was not leviable on license fee and application fee, by whatever name it is called, payable for alcoholic liquor for human consumption and that this would apply mutatis mutandis to the demand raised by Service Tax/Excise authorities on license fee for alcoholic liquor for human consumption in the pre-GST era, i.e. for the period from 01-04-2016 to 30-06-2017.

3. Grant of liquor licences by State Government against payment of consideration in the form of licence fee, application fee etc. was a taxable service under Service Tax, therefore to implement GST Council's recommendation, Central Government decided to exempt service provided or agreed to be provided by way of grant of liquor licence by the State Government, against consideration in the form of licence fee or application fee, by whatever name called, during the period from 01.04.2016 to 30.06.2017. Clause No. 117 of Finance (No. 2) Act, 2019 may be referred in this regard.

4. GST Council in its 37<sup>th</sup> meeting held on 20.09.2019 further recommended that the decision of the 26<sup>th</sup> GST Council meeting be implemented by notifying service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or

by whatever name it is called, by State Government as neither a supply of goods nor a supply of service. Therefore, in exercise of powers conferred under sub-section 2 (b) of section 7 of CGST Act, 2017, Notification No. 25/2019-Central Tax (Rate) dated 30<sup>th</sup> September, 2019 has been issued.

5. GST Council further decided in the 37<sup>th</sup> meeting held on 20.09.2019, to clarify that this special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

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

Yours Faithfully,

(Shashikant Mehta)  
OSD, TRU  
Email: shashikant.mehta@gov.in  
Tel: 011 2309 5547



## **(V) ADVANCE RULINGS**

### **1. GST not payable on recovery of 50% Insurance Premium from employees**

Case Name : **In re Jotun India Pvt. Ltd (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. GST-ARA-19/2019-20/B-108

Date of Judgement/Order : 04/10/2019

**Whether recovery of 50% of Parental Health Insurance Premium from employees amounts to ‘supply of service’ under Section 7 of the Central Goods and Services Tax Act, 2017?**

AAAR has ruled that. *they are not rendering any service of health insurance to their employees and hence, there is no supply of services in the instant case.* In view of detailed discussions, we find that the recovery of 50% of Parental Health Insurance Premium from employees does not amounts to “supply of service” under Section 7 of the Central Goods and Service Tax Act, 2017.

### **2. GST on fees from MCGM for Operating Citizen Facilitation/ Collection Centres**

Case Name : **In re M/s. VFS Global Services Private Limited (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. GST-ARA-16/2019-20/B-109

Date of Judgement/Order : 04.10.2019

**Whether the work for ‘Operating Citizen Facilitation Centre (CFC) at various Locations of MCGM on per transaction/receipt basis’ involving the aforesaid Scope of Work would be exempt from GST vide Sr. No.3 & 3A of amended Notification No. 12/2017 – Central (Rate) as on 31st Dec, 2018.**

From a perusal of the contract submitted by the applicant, we do not agree with the applicant that the supply by them to MCGM is a composite supply of service. The contract very clearly states that the agreement between Mr. Anil Katoch of M/s VFS Global Services Private Limited and Shri Sitaram Kunte, Municipal Commissioner, is for the work of Operating Citizen Facilitation Centres / Collection Centres at various Locations of MCGM for 5 years on per transactions basis at Rs.29.45 (Rupees twenty nine and paise forty five only) per transaction for pilot period of two months and thereafter for five years. The contract nowhere specifies separately for supply of goods, namely, computers, other consumables, etc. Therefore, we find that the computers, other consumables, etc are being used by the applicant on their own account and that too for the purpose of providing services for the work of Operating Citizen Facilitation Centres / Collection Centres at various Locations of MCGM. Hence we find that their supply is of services only and are in the nature of pure services. However, we agree to their submission that their role starts only after MCGM has provided services to citizens for which periodical bills/invoices are issued by MCGM. The role of the applicant starts only after the supply of goods/services are rendered by MCGM and hence it cannot be said that they are rendering service by way of any

activity in relation to any function entrusted to a Municipality under article 243W of the Constitution.

### **3. GST on supply, erection, installation, commissioning and testing of UPS system for DMRC**

Case Name : **In re Vertiv Energy Private Limited (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. GST-ARA -17/2019-20/B-107

Date of Judgement/Order : 04/10/2019

#### **Whether the contract entered into with DMRC for supply, erection, installation, commissioning and testing of UPS system qualifies as a supply of works contract under Section 2(119) of the CGST Act?**

From the discussions made above we find that in the contract submitted by the applicant the major part of the contract is supply of goods. i.e. UPS Units, etc. These goods are delivered to the client by the applicant and such goods that are supplied are used by the applicant to provide services of installation, testing and commissioning of the substations. Without these goods the services cannot be supplied by the applicant and therefore we find that the goods and services are supplied as a combination and in conjunction and in the course of their business where the principal supply is supply of goods. Thus we find that there is a composite supply in the subject case.

Now that we have found that there is no works contract involved in the subject case and the supply is nothing but a composite supply with supply of goods being the principal supply we come to the second question raised by the applicant which is, whether their taxable at the rate of 12% in terms of Sr. no. 3(v) of Notification No. 11/2017 , as amended w.e.f. 25.1.2018?

The principal supply as mentioned above in this case is a supply of goods and therefore the GST will have to be paid on the goods at the appropriate rate after classification under the appropriate heading. The principal goods in the subject case is UPS units which are most important for the applicant to render supply as per the contract.

We find from the submissions made by the applicant that UPS is classified under Heading 8504 and attracts GST @18% as supply of goods. Hence the principal supply in their composite supply being goods as described under heading 8504, the applicant is liable to pay GST on the whole contract @ 18%.

### **4. GST payable on amount collected by Rotary club for convenience of members**

Case Name : **In re M/s. Rotary Club of Mumbai Western Elite (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. GST-ARA- 09/2019-20/B-105

Date of Judgement/Order : 04/10/2019

Question: – The amount collected by Rotary club is towards convenience of members and pooled together for paying meeting expenses, communication expenses, RI per capita dues, subscription fees to the Rotarian or Rotary regional magazine, district per capita assessment and the same is deposited in single bank account. As there is no furtherance of business in this activity and neither any services are rendered nor are

any goods being traded, whether the above transaction can be considered as supply of goods or services to its Members under GST?

Answer :- The said transaction by the applicant to its members is a supply of goods/services and is liable to GST.

#### **5. GST payable on Receipt of prize money from horse race conducting entities**

Case Name : **In re M/s. Vijay Baburao Shirke (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. GST-ARA-12/2019-20/B-106

Date of Judgement/Order : 04/10/2019

**Question:** Whether receipt of prize money from horse race conducting entities, in the event horse owned by the applicant wins the race, would amount to 'supply under section 7 of the **Central Goods and Service Tax Act, 2017** or not and consequently, liable to GST or not?

**Answer:** Answered is in affirmative. The amount of prize money received from the events conducting entities would be covered under 'supply under section 7 of the CGST Act, 2017 and consequently, it is held as taxable supply of services and liable to GST @ 18% (9% each of CGST and SGST).

#### **6. No GST on Adoption Fees received from Adoptive Parents by Trust under Adoption Law**

Case Name : **In re Ms. Children of the World India Trust (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. GST-ARA-15/2019-20/B

Date of Judgement/Order : 04/10/2019

**Question :- Whether the activities conducted by The Children of the World (India) Trust are the "Charitable Activities" exempted under the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as amended and consequently, the receipt of the Adoption Fees paid under Regulation 46 of the Adoption Regulations, 2017 by the Prospective Adoptive Parents to the Trust is exempted from the levy of Goods and Services Tax.**

Answer: – The activities conducted by the applicant are "Charitable Activities" which are exempted under **Notification No.12/2017- Central Tax (Rate) dated 28.06.2017** as amended. The receipt of the Adoption Fees paid under Regulation 46 of the Adoption Regulations, 2017 by the Prospective Adoptive Parents to the Trust is exempted from the levy of Goods and Services Tax exempted under **Notification No.12/2017- Central Tax (Rate) dated 28.06.2017** as amended

#### **7. PVC Tufted Coir Mats & Matting cannot be considered as textile of coir and floor coverings**

Case Name : **In re M/s. Travancore Coco tuft Pvt. Ltd. (GST AAR Kerala)**

Appeal Number : Advance Ruling No. KER/67/2019

Date of Judgement/Order : 12/10/2019

**Whether or not PVC Tufted Coir Mats and Matting attracts low band tax rate of 5% as per the recommendations of the Fitment Committee and approval of the GST Council?**

PVC Tufted Coir Mats and Matting cannot be considered as textile of coir and floor coverings covered under HSN 5702, 5703 and 5705 and hence taxable @12% under Customs Tariff Head 5703 90 90.

**8. Bentonite powder used for earthing purpose is taxable @18% GST**

Case Name : **In re M/s Excel Earthings (GST AAR Kerala)**

Appeal Number : Advance Ruling No. KER/63/2019

Date of Judgement/Order : 12/10/2019

(i) The classification of "Bentonite Powder" while using for electrical earthing (8kg and 6kg packet) and its effective tax rate.

Bentonite Powder used for electrical earthing is commercially known as 'Back Fill Compound' and it consist of mixture of Bentonite powder, wood charcoal powder, Graphite powder and Sodium sulphate. This mixture is used as an agent for reducing surface tension. Hence it comes under the Heading 3824.99.17 and is taxable at the rate of 18% as per SI No. 97 of Schedule III of **Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017**

(ii) Our competitors, selling the Bentonite Powder @ 5% (in electrical shops for earthing purpose), whether it is correct as per the provision of the Act?

Mixture of Bentonite powder used for earthing purpose is liable to GST at the rate of 18%.

**9. GST on design, realisation, integration & commissioning of Wind Tunnel for ISRO**

Case Name : **In re M/s Tata Projects Limited (GST AAR Kerala)**

Appeal Number : Advance Ruling No. KER/62/2019

Date of Judgement/Order : 15/10/2019

Advance Ruling regarding Design, realisation, integration and commissioning of 1.2m trisonic wind tunnel at VSSC, ISRO, Thiruvananthapuram.

**Whether the supply under the contract for 'Design, Realisation, Integration and Commissioning of 1.2m Trisonic Wind Tunnel at Vikram Sarabhai Space Centre, ISRO, Thiruvananthapuram can be considered as supply of equipment eligible for the concessional rate of GST under SLNo.243A of First Schedule of Notification No.01/2017 Integrated Tax Rate dtd.28-06-2017.**

The supply under the contract cannot be considered as supply of equipment eligible for concessional rate of goods and services tax as per SI.No.243B of First Schedule of Notification No.01/2017 Integrated Tax (Rate) dated 28.06.2017.

**If the above supply is considered as works contract whether it would be covered**

**under Entry SI.No.3 of Notification No.08/2017 Integrated Tax (Rate) dtd.28-06-2017 as amended by Notification No.24/2017 Integrated Tax (Rate) dtd.21-09-2017 attracting GST at the rate of 12%.**

The work of design, realisation, integration and commissioning of 1.2m Trisonic Wind Tunnel as a turnkey project will fall under the definition of works contract under Section 2 (119) of the **CGST Act, 2017**. The Service provided to the Central Government by way of construction, erection, commissioning, installation, (completion, fitting out, of a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession will attract 12% GST as per SI.No.3(vi) of **Notification No.08/2017 Integrated Tax (Rate) dated 28.06.2017**.

#### **10. TDS under GST on supply of solid waste conservancy service to a municipality**

Case Name : **In re M/s Singh Transporl Agency (GST AAR West Bengal)**

Appeal Number : Order No. 29/WBAAR/2019-20

Date of Judgement/Order : 21/10/2019

#### **Whether TDS is deductible on supply of solid waste conservancy service to a municipality under GST?**

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.

#### **11. Whether co-owners of a jointly held property are liable to pay tax as AOP**

Case Name : **In re Sri Rabi Sankar Tah (GST AAR West Bengal)**

Appeal Number : Order No. 28/WBAAR/2019-20

Date of Judgement/Order : 21/10/2019

#### **Whether co-owners of a jointly held property are liable to pay tax as an association of persons (AOP)?**

The Applicant and the other two co-owners cannot be treated as an association of persons and, therefore, as a person defined under section 2(84)(f) of the GST Act, where their income from renting is separately ascertainable and assessed for income tax individually at the hand of each co-owner. Whether the Applicant is required to be registered under section 22(1) of the GST Act will, therefore, depend on his gross turnover, ascertained separately from the other co-owners, exceeding the threshold as provided under the Act.

## **12. Whether supply of stores in foreign going vessels is export under GST**

Case Name : **In re Shewratan Company Pvt. Ltd. (GST AAR West Bengal)**

Appeal Number : Order No. 30/WBAAR/2019-20

Date of Judgement/Order : 21/10/2019

Whether supply of stores in foreign going vessels is export under GST?

The Applicant's supply of stores to foreign going vessels, as defined under section 2(21) of the Customs Act, 1962 Act, is not export or **zero-rated supply**, unless it is marked specifically for a location outside India. The Applicant is, therefore, liable to pay tax on such supplies under the GST Act or the IGST Act, as the case may be.

## **(VI) COURT ORDERS/ JUDGEMENTS**

### **1. Duty Free Shops at International Airport exempt from GST: HC**

Case Name : **Sandeep Patil Vs Union of India and Others (Bombay High Court)**

Appeal Number : Criminal Application No. 8 of 2019

Date of Judgement/Order : 07/10/2019

The impugned show cause notices allege that the goods imported by the petitioner from outside India into the special warehouse would constitute import of goods under the proviso to section 7(2) of the IGST Act, and thereby, liability of payment of tax under the proviso to section 5 of IGST Act is alleged. It further alleges non-payment of SGST on the transactions of sale of goods effected to the international passengers going out of India.

We find sufficient merit in the submissions of the petitioner that import of goods in terms of section 2(10) of the IGST Act means bringing the goods into India from a place outside India. As per Section 7(2) of the IGST Act, goods imported into the territory of India, till such time it crosses the customs frontier of India, shall be treated to be a supply of goods in the course of inter-State trade and commerce. As per Section 2(4) of the IGST Act, the customs frontier of India means the limits of a customs area as defined in section 2 of the Customs Act. The duty free warehouse and DFS of the petitioner are only within the limits of the customs area and therefore, the goods lying therein do not cross the customs frontier and consequently, the importation will continue to be only in the state of inter-State trade and commerce in terms of Section 7(2).

We find sufficient merit in the submissions of the petitioner that petitioner only files bill of entry for warehousing. No liability under section 12 read with section 3(12) of the Customs Tariff Act would get triggered at all by filing bill of entry for warehousing. The customs duty and IGST is leviable only on removal of warehoused goods from the customs area, which happens when the arriving passengers leave the custom area. Since, the goods sold by DFS to arriving passengers do not leave the customs area, DFS is neither liable to pay customs duty, nor IGST.

We also find merit in the contention of the Petitioner that both before and after the introduction of GST, the sales to arriving passengers continue to be sales in and/or from the custom area, as at the point of sale in DFS, the goods have neither crossed the customs frontier nor have they been cleared for home consumption by DFS. Accordingly, neither customs duty, nor Integrated Tax, is payable by DFS. Furthermore, we find merit in the contention of the petitioner that arriving passenger's baggage is exempt from the integrated tax in view of the Customs **Notification No. 43/2017-Cus dated 30 June 2017** and IGST **Notification No. 2/2017 IGST (rate) dated 28 June 2017**. In view of the above exemption read with the duty free allowance available under the Baggage Rules applicable to arriving passengers, neither customs duty (upto the permitted baggage allowance) nor IGST is levied on such goods. Such import of goods by arriving passengers across custom frontier as passenger baggage is therefore an exempt supply under the GST, hence no IGST is payable by either the DFS on its imports, or on supply to arriving passengers. The arriving passengers are

also not required to pay any IGST on crossing the custom frontiers, in view of the above exemption read with the duty free allowance under the Baggage Rules.

In the backdrop above, in our view, consequently, the charging provision that will get attracted is only the proviso to section 5 of the IGST Act, which again mandates two aspects:

(a) the IGST will be levied only at the points when the duties of customs are levied on such goods under section 12 of the Customs Act read with Section 3 of the **Customs Tariff Act, 1975**; and

(b) the point of levy under section 12 of the Customs Act would arise only when a bill of entry is filed under section 68 of the Customs Act. This Provision relates to warehoused goods meant for home consumption and therefore, liability to pay duty occurs only when a bill of entry for home consumption is filed.

Significantly, in view of the **CGST (Amendment) Act, 2018** effective from 1 February 2019, supply of warehoused goods before clearance for home consumption have been notified/classified under Schedule-III of the CGST Act as activities or transactions, which shall be treated neither as a supply of goods, nor a supply of services. Accordingly, effective from 1 February 2019, sale of goods from arrival DFS falls under entry 8(a) of Schedule-III to CGST/SGST Act. However, Since, supply of goods from departure DFS is “export” and the same is not cleared for home consumption, the same does not fall under Schedule-III of CGST/SGST Act.

32. The Supreme Court of India in the matter of *Kiran Spinning Mills vs. Collector of Customs [AIR 2000 SC 3448]* has held thus :

6. .... That apart, this Court has held in *Sea Customs Act, [1964(3) SCR 787 at page 803]* that in the case of duty of customs the taxable event is the import of goods within the customs barriers. In other words, the taxable event occurs when the customs barrier is crossed. In the case of goods which are in the warehouse the customs barriers would be crossed when they are sought to be taken out of the customs and brought to the mass of goods in the country. .... The import would be completed only when the goods are to cross the customs barriers and that is the time when the import duty has to be paid and that is what has been termed by this Court in *IN RE: The Bill to amend Section 20 of the Sea Customs Act, 1878 and Section 3 of the Central Excise Act, 1944 [(1964) 3 SCR 787 at page 823]* *Sea Customs Case* as being the taxable event. The taxable event, therefore, being the day of crossing of customs barrier, and not on the date when the goods had landed in India or had entered the territorial waters.

33. In *Garden Silks Mills Ltd. Vs. Union Of India [1999 (113) ELT 0358 (SC)]* the Supreme Court has held thus :

“16..... It would appear to us that the import of goods into India would commence when the same cross into the territorial waters but continues and is completed when the goods become part of the mass of goods within the country; the taxable event being reached at the time when the goods reach the customs barriers and the bill of entry for home consumption is filed.”

Needless to say that if the duty free shop, which caters to the outgoing or incoming international passengers, is subjected to local taxes by the State, the tax burden will increase and the price of the goods, which are supposed to be free of taxes and duties, will go up, and the same would prevent the duty free shops in India from competing with DFSs at international airports elsewhere in the world. This will also hamper and



prejudicially affect our foreign trade, and augmentation and conservation of foreign exchange. In our opinion, this will also negate the intent and purpose of Article 286 of the Constitution of India.

In the backdrop of above, we are of the view that impugned order and the impugned show cause notice dated 10 January 2019 are manifestly arbitrary and in the teeth of the purpose and intent of Article 286 of the Constitution of India and the provisions of the GST law read with the Customs Act, 1962.

Hence, writ petition bearing W.P. No.1511 of 2019 succeeds. The impugned order dated 10 January 2019 and the impugned show cause notices are quashed and set aside. So far as Writ Petition No. 1535 of 2019 is concerned, we refrain from issuing any declaration since the Petitioner is held to be entitled for refund of ITC and as such no prejudice will be caused to them, if they would first pay GST on the services provided to DFSs by MIAL and take ITC of the entire tax amount, and thereafter claim refund of the same by following the procedure contained in Rule-89.

In the light above, criminal application no. 8 of 2019 taken out in Criminal PIL No. 14 of 2019, is rendered infructuous and the same is, therefore, dismissed.

## **2. Confiscation of conveyance & goods – Hearing / passing of speaking order mandatory**

Case Name : **Sitaram Roadways Vs State of Gujarat (Gujarat High Court)**

Appeal Number : R/Special Civil Application No. 15107 of 2019

Date of Judgement/Order : 10/10/2019

Observing that principles of natural justice were violated by the adjudicating authority, the Gujarat High Court has set aside the order of confiscation of conveyance and goods, earlier found to be not in possession of mandatory documents. The Court noted that petitioner was not afforded opportunity of hearing inasmuch as matter was kept for hearing on 28-8-2019 but the impugned confiscation order was passed on 24-8-2019. It also observed that the confiscation order was not a speaking order and did not reflect the reason as to why the officer had concluded on confiscation. The impugned order was also found to be silent as regards which provision was violated and which clause of Section 130 was attracted. The Court also noted that the departmental officer had levied more than the maximum fine leviable in terms of Section 130(2) of CGST Act. The matter was remanded for decision afresh.

## **3. Detention of goods merely for handwritten & Photocopied transport receipt is Illegal**

Case Name : **F S Enterprise Vs State of Gujarat (Gujarat High Court)**

Appeal Number : Special Civil Application No. 7061 of 2019

Date of Judgement/Order : 11/10/2019

In this case despite the fact that the petitioner had complied with the procedure for movement of goods as stipulated under the GST Acts, by the impugned order, the truck with the goods came to be detained/seized under section 129 of the GST Acts

on the ground that the **transport receipt was a photocopy and the details filled in the transport receipt were handwritten.**

Subsequently, the second respondent issued a notice demanding payment of tax and penalty under section 129 of the GST Acts for release of the goods. A copy of the statement of the driver in the prescribed format GST MOV 1 was also provided to the petitioner. The petitioner, thereafter, immediately approached the concerned authority and submitted all the documents which are required to accompany the goods under the GST Acts. The e-way bill was admittedly generated prior to the commencement of movement of goods which contained all details relating to invoice as well as the buyer of the goods. Insofar as the transport receipt is concerned, the petitioner explained that it was common practice of the transporter to send scanned copies of the transport receipt through whatsapp/email which were then filled at the place of dispatch and signed by the authorized representative of the transporter. However, no format was prescribed for transport receipt under the GST Acts and thus, there was no question of there being any breach of the provisions of the GST Acts. Despite such written statement and repeated oral requests, the second respondent refused to release the truck with the goods without payment of tax and penalty under section 129 of the GST Acts. Being aggrieved, the petitioner has approached this court challenging the order of detention dated 2.4.2019 passed by the second respondent under section 129 of the **Central Goods and Services Tax Act, 2017** (hereinafter referred to as the "CGST Act") and the provisions of other relevant statutes as well as the notice dated 2.4.2019 issued in FORM GST MOV-07, demanding tax and penalty under section 129 of the GST Acts.

Adverting to the merits of the present case, it was submitted that the detention/seizure under section 129 of the GST Acts of the truck with the goods, is wholly without jurisdiction, arbitrary and illegal. It was urged that the petitioner had duly complied with the procedure that is required to be followed for dispatch of goods under the GST Acts viz., the tax invoice was duly prepared prior to movement of goods; E-way bill was generated prior to commencement of movement which contained details of the goods, tax invoice as well as the buyer of goods including his registration number under the GST Acts; and the transport receipt of the transporter was also accompanying the goods; and there was absolutely no contravention of any provision of the GST Acts. It was further submitted that insofar as the transport receipts are concerned, the petitioner has explained that it was a routine practice for the transporter to send scanned copies of the transport receipts which would then be filled and signed by the authorised representative of the transporter at the place of dispatch. However, there is no format of transport receipt prescribed under the GST Acts, and hence, the detention/seizure of the truck with the goods and subsequent demand of tax and penalty under section 129 of the GST Acts on such flimsy ground, even though there was no contravention of the provision of the GST Acts, is wholly without jurisdiction, arbitrary, bad and illegal.

Hon'ble High Court Observed that though the person in charge of the conveyance had produced the documents which were statutorily required to be kept with him during the course of transportation of the goods, the vehicle in question was detained on extraneous grounds namely that the lorry receipt issued by the transporter was a photocopy without computerised serial number and contact number details.

**Hon'ble High Court held that it is evident that the person in-charge of the conveyance carrying the goods in question had in his possession, the invoice**

as well as the e-way bill in respect thereof, and both such documents were produced before the proper officer when the conveyance in question came to be intercepted. It is not the case of the respondents that any discrepancy was found in the aforesaid two documents. Under the circumstances, in the light of the instructions contained in Circular dated 13.4.2018 issued by the Board, it was incumbent upon the second respondent to issue a release form in FORM GST MOV- 05 and allow the conveyance to move further. However, the conveyance in question has been detained on the ground of discrepancy in transport certificate which is not a requirement prescribed under the statute. Under the circumstances, the second respondent was not justified in passing the order of detention under section 129(1) of the CGST Act.

#### **4. Detention of conveyance in absence of discrepancy in E Way Bill or Tax Invoice not sustainable**

Case Name : **Insha Trading Company through Proprietor Mustak Jamalbhai Sheikh Vs. State Of Gujarat (Gujarat High Court)**

Appeal Number : Special Civil Application No. 16901 of 2019

Date of Judgement/Order : 18/10/2019

The reasons for issuance of the notice for confiscation under section 130 of the CGST Act in Form GST MOV-10 are that upon preliminary verification of the dealer online, 42 e-way bills have been generated in December 2018, wherein, IGST has been shown to Rs.3,64,30,800/- and it appears that, dealers has not paid the same or that the purchases are not genuine. If that be so, nothing prevents the respondents from taking appropriate action against petitioner in accordance with law under the relevant provisions of the CGST Act. However, when the conveyance in question was carrying the goods which were duly accompanied by documents and no discrepancy was found in connection therewith, there was no reason for the third respondent to confiscate the same. The impugned order of confiscation passed by the third respondent under section 130 of the CGST Act, therefore, cannot be sustained.

#### **5. Delay In Filing VAT Appeal to High Court can be condoned: SC**

Case Name : **Superintending Engineer Vs. Excise And Taxation Officer (Supreme Court)**

Appeal Number : Civil Appeal Nos. 8276-8277 of 2019

Date of Judgement/Order : 25/10/2019

**Power to Condone Delay under limitation Law applies to Special or Local Laws unless Expressly Excluded:** In a recent Supreme Court judgement dt 25.10.2019, in Superintending Engineers v/s Excise and Taxation Officer, it has been held, that delay in filing Revision against order of Tribunal beyond limitation prescribed under VAT Act can be condoned and judgment in Patel Bros v/s State of Assam 2017(2) SCC 350 appears to be overruled by necessary implication.

**The question involved** is whether the High Court while exercising revisional power under Section 48 of the Himachal Pradesh Value Added Tax Act, 2005 (the Act of

2005'), condone the delay in case a revision under Section 48 of the Act of 2005, is filed beyond 90 days from the date of communication of the order or it excludes the applicability of Section 29 of the Limitation Act, 1963, and in consequence of Section 5 of the Limitation Act.

**Hon'ble Supreme Court held** that as per section 29(2), unless a special law expressly excludes the provision, sections 4 to 24 of the Limitation Act are applicable. When we consider the scheme of the Himachal Pradesh VAT Act, 2005, it is apparent that its scheme is not ousting the provisions of the Limitation Act from its ken which makes principles of section 5 applicable even to an authority in the matter of filing an appeal but for the said provision the authority would not have the power to condone the delay.

By implication also, it is apparent that the provisions of Section 5 of the Limitation Act have not been ousted; they have the play for condoning the limitation under Section 48 of the Act of 2005.