GST UPDATE
(May, 2020)

Directorate of Training, Excise and Taxation Department, Punjab

ABSTRACT OF GST UPDATE

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(I) GIST OF GST NOTIFICATIONS

1. Rule 67A Manner of furnishing of return by short messaging service facility

A registered person registered under the provisions of the **Companies Act, 2013** (18 of 2013) shall, during the period from the 21st day of April, 2020 to the 30th day of June, 2020, also be allowed to furnish the return under section 39 in FORM GSTR3B verified through electronic verification code (EVC)."
– Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in FORM GSTR-3B for a tax period, any reference to electronic furnishing shall include furnishing of the said return through a short messaging service using the registered mobile number and the said return shall be verified by a registered mobile number based One Time Password facility.

[Notification No.38/2020- Central Tax Dated- 05-05-2020]

2. New GST Registration for corporate debtors undergoing corporate insolvency resolution process

In exercise of the powers conferred by section 148 of the **Central Goods and Services Tax Act, 2017** (12 of 2017), the 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. 11/2020-Central Tax, dated the 21st March, 2020**, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 194(E), dated the 21st March, 2020, namely:—
In the said notification
in the first paragraph, the following proviso shall be inserted, namely: –
"Provided that the said class of persons shall not include those corporate debtors who have furnished the statements under section 37 and the returns under section 39 of the said Act for all the tax periods prior to the appointment of IRP/RP."
for the paragraph 2, with effect from the 21st March, 2020, the following paragraph shall be substituted, namely: –
"2. Registration.-The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later.

[Notification No.39/2020- Central Tax Dated- 05-05-2020]

3. Extending the validity of e-way bills till 31.05.2020 for those e-way bills which expire during the period from 20.03.2020 to 15.04.2020 and generated till 24.03.2020

Where an e-way bill has been generated under rule 138 of the CGST Rules, 2017 on or before the 24 March, 2020 and its period of validity expires during the period 20 March, 2020 to the 15th April, 2020 Validity period of such e-way bill shall be deemed to Have Been Extended till The 31 May, 2020.
So if any E-way Bill which was Generated till 24 March 2020 And Expired Between 20 March to 15 April, 2020 it will be Deemed to Be Extended Till 31 May 2020.

[Notification No. 40/2020–Central Tax Dated- 05-05-2020]

4. Extending the due date for furnishing of FORM GSTR 9/9C for FY 2018-19 till 30th September, 2020

Commissioner, on the recommendations of the Council, hereby extends the **Time Limit for furnishing of the annual return for the financial year 2018-2019** till the 30 Sept, 2020 i.e. Commissioner Has Extended the GST Annual Return filing Date To 30 Sept 2020 from existing 30 June 2020

[Notification No. 41/2020–Central Tax Dated- 05-05-2020]

5. Changes In Due Date Of Filing Form GSTR-3B for the Union Territory of Jammu & Kashmir And Ladakh

Union Territory	Month for which GSTR 3B to be submitted	Due Date
Jammu & Kashmir	November, 2019 to February, 2020	24th March, 2020
Ladakh	November, 2019 to December, 2019	24th March, 2020
Ladakh	January, 2020 to March, 2020	20th May, 2020

[Notification No. 42/2020–Central Tax Dated- 05-05-2020]

6. Bringing into force Section 128 of Finance Act, 2020 in order to bring amendment in Section 140 of CGST Act w.e.f. 01.07.2017

Notification No.43/2020 seeks to bring into force Section 128 of Finance Act, 2020 in order to bring amendment in Section 140 of CGST Act w.e.f. 01.07.2017.
The Central Board of Indirect Taxes and Customs (CBIC) notified retrospective amendments to section 140 of CGST Act, granting it power to prescribe a time limit for availing transitioning credit – the credit from pre-goods and services tax (GST) regime which was moved to the GST regime as input tax credit from July 1, 2017.
The Central Government hereby appoints the 18th day of May, 2020, as the date on which the provisions of Section 128 of the Finance Act, 2020, shall come into force.

[Notification No.43/2020- Central Tax Dated 16-05-2020]

(II) 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. 38/2020 – Central Tax

New Delhi, the 5th May, 2020

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

1. (1) These rules may be called the Central Goods and Services Tax (Fifth Amendment) Rules, 2020.

(2) Save as otherwise provided, 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), with effect from the 21st April, 2020, in rule 26 in sub-rule (1), after the proviso, following proviso shall be inserted, namely: -

"Provided further that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall, during the period from the 21st day of April, 2020 to the 30th day of June, 2020, also be allowed to furnish the return under section 39 in **FORM GSTR-3B** verified through electronic verification code (EVC).".

3. In the said rules, after rule 67, with effect from a date to be notified later, the following rule shall be inserted, namely: -

"**67A. Manner of furnishing of return by short messaging service facility**.- Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in **FORM GSTR-3B** for a tax period, any reference to electronic furnishing shall include furnishing of the said return through a short messaging service using the registered mobile number and the said return shall be verified by a registered mobile number based One Time Password facility.

Explanation. - For the purpose of this rule, a Nil return shall mean a return under section 39 for a tax period that has nil or no entry in all the Tables in **FORM GSTR-3B**.".

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R. 610(E), dated the 19th June, 2017 and last amended vide notification No. 30/2020 - Central Tax, dated the 3rd April, 2020, published vide number G.S.R. 230 (E), dated the 3rd April, 2020.

[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. 39/2020 – Central Tax

New Delhi, the 5th May, 2020

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 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.11/2020- Central Tax, dated the 21st March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 194(E), dated the 21st March, 2020, namely:-

In the said notification

(i) in the first paragraph, the following proviso shall be inserted, namely: -

"Provided that the said class of persons shall not include those corporate debtors who have furnished the statements under section 37 and the returns under section 39 of the said Act for all the tax periods prior to the appointment of IRP/RP.";

(ii) for the paragraph 2, with effect from the 21st March, 2020, the following paragraph shall be substituted, namely: -

"2. **Registration**.- The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration)in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later:.".

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 11/2020-Central Tax, dated the 21st March, 2020, published vide number G.S.R. 194(E), dated the 21st March, 2020.

[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. 40/2020 – Central Tax

New Delhi, the 5th May, 2020

G.S.R.....(E).– In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and section 21 of Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.35/2020-Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3rd April, 2020, namely:-

In the said notification, in the first paragraph, in clause (ii), the following proviso shall be inserted, namely: -

"Provided that where an e-way bill has been generated under rule 138 of the Central Goods and Services Tax Rules, 2017 on or before the 24th day of March, 2020 and its period of validity expires during the period 20th day of March, 2020 to the 15th day of April, 2020, the validity period of such e-way bill shall be deemed to have been extended till the 31st day of May, 2020.".

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 35/2020-Central Tax, dated the 3rd April, 2020, published vide number G.S.R. 235(E), dated the 3rd April, 2020.

[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. 41/2020 – Central Tax

New Delhi, the 5th May, 2020

G.S.R.....(E).– In exercise of the powers conferred by sub-section (1) of section 44 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with rule 80 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), and in supersession of notification No. 15/2020-Central Tax, dated the 23rd March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 198(E), dated the 23rd March, 2020, except as respects things done or omitted to be done before such supersession, the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing of the annual return specified under section 44 of the said Act read with rule 80 of the said rules, electronically through the common portal, for the financial year 2018-2019 till the 30th September, 2020.

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, 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. 42/2020 – Central Tax

New Delhi, the 5th May, 2020

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) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017, the Commissioner, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.44/2019 – Central Tax, dated the 9th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 9th October, 2019, namely:–

In the said notification, in the first paragraph, for the sixth proviso, the following provisos shall be substituted, namely: –

"Provided also that the return in **FORM GSTR-3B** of the said rules for the months of November, 2019 to February, 2020 for registered persons whose principal place of business is in the Union territory of Jammu and Kashmir, shall be furnished electronically through the common portal, on or before the 24th March, 2020:

Provided also that the return in **FORM GSTR-3B** of the said rules for the months of November, 2019 to December, 2019 for registered persons whose principal place of business is in the Union territory of Ladakh, shall be furnished electronically through the common portal, on or before the 24th March, 2020:

Provided also that the return in **FORM GSTR-3B** of the said rules for the months of January, 2020 to March, 2020 for registered persons whose principal place of business is in the Union territory of Ladakh, shall be furnished electronically through the common portal, on or before the 20th May, 2020.".

2. This notification shall be deemed to come into force with effect from the 24th Day of March, 2020

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification number 44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 09th October, 2019 and was last amended by notification number 25/2020 – Central Tax, dated the 23rd March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 208(E), dated the 23rd March, 2020.

[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. 43/2020 – Central Tax

New Delhi, the 16th May, 2020

G.S.R. ….(E).— In exercise of the powers conferred by sub-section (2) of section 1 of the Finance Act, 2020 (12 of 2020) (hereafter in this notification referred to as the said Act), the Central Government hereby appoints the 18th day of May, 2020, as the date on which the provisions of section 128 of the said Act, shall come into force.

[F. No. CBEC-20/06/09/2019-GST]

(Pramod Kumar)
Director, Government of India

(III) CGST CIRCULARS

Circular No. 138/08/2020-GST

CBEC-20/06/04-2020 -GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, dated the 06th May, 2020

To

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

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws-reg.

Circular No.136/06/2020-GST, dated 03.04.2020 and Circular No.137/07/2020-GST, dated 13.04.2020 had been issued to clarify doubts regarding relief measures taken by the Government for facilitating taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") on account of the measures taken to prevent the spread of Novel Corona Virus (COVID-19). Post issuance of the said clarifications, certain challenges being faced by taxpayers in adhering to the compliance requirements under various other provisions of the CGST Act were brought to the notice of the Board, and need to be clarified.

2. The issues raised have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies as under:

Sl. No.	Issue	Clarification
Issues related to Insolvency and Bankruptcy Code, 2016		
1.	Notification No. 11/2020 – Central Tax dated 21.03.2020, issued under section 148 of the CGST Act provided that an IRP / CIRP is required to take a separate registration	Vide notification No. 39/2020- Central Tax, dated 05.05.2020, the time limit required for obtaining registration by the IRP/RP in terms of special procedure prescribed vide notification No. 11/2020 – Central Tax dated

	within 30 days of the issuance of the notification. It has been represented that **the IRP/RP are facing difficulty in obtaining registrations during the period of the lockdown and have requested to increase the time for obtaining registration from the present 30 days limit.**	21.03.2020 has been extended. Accordingly, IRP/RP shall now be required to obtain registration **within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later**.
2.	The notification No. 11/2020–Central Tax dated 21.03.2020 specifies that the IRP/RP, in respect of a corporate debtor, has to take a new registration with effect from the date of appointment. **Clarification has been sought whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor** (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the Corporate debtor / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing.	i. The notification No. 11/2020– Central Tax dated 21.03.2020 was issued to devise a special procedure to overcome the requirement of sequential filing of **FORM GSTR-3B** under GST and to align it with the provisions of the IBC Act, 2016. The said notification has been amended vide notification No. 39/2020 - Central Tax, dated 05.05.2020 so as to specifically provide that corporate debtors who have not defaulted in furnishing the return under GST would not be required to obtain a separate registration with effect from the date of appointment of IRP/RP. ii. Accordingly, it is clarified that IRP/RP would not be required to take a fresh registration in those cases where statements in FORM GSTR-1 under section 37 and returns in FORM GSTR-3B under section 39 of the CGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor (earlier GSTIN).
3.	Another doubt has been raised that the present notification has used the terms IRP and RP interchangeably, and in cases **where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP**, or both will need to take fresh registration.	i. In cases where the RP is not the same as IRP, or in cases where a different IRP/RP is appointed midway during the insolvency process, the change in the GST system may be carried out by an amendment in the registration form. Changing the authorized signatory is a non- core amendment and does not require approval of tax officer. However, if the previous authorized signatory does not share the credentials with his successor, then the newly appointed person can get his details added through the

		Jurisdictional authority as Primary authorized signatory. ii. The new registration by IRP/RP shall be required only once, and in case of any change in IRP/RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment. Accordingly, it is clarified that such a change would need only change of authorized signatory which can be done by the authorized signatory of the Company who can add IRP /RP as new authorized signatory or failing that it can be added by the concerned jurisdictional officer on request by IRP/RP.
Other COVID-19 related representations.		
4.	As per notification no. 40/2017-Central Tax (Rate) dated 23.10.2017, a registered supplier is allowed to supply the goods to a registered recipient (merchant exporter) at 0.1% provided, *inter-alia*, that the merchant exporter exports the goods within a period of ninety days from the date of issue of a tax invoice by the registered supplier. Request has been made to clarify the provision vis-à-vis the exemption provided vide notification no. 35/2020-Central Tax dated 03.04.2020.	i. Vide notification No. 35/2020-Central Tax dated 03.04.2020, time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020, where completion or compliance of such action has not been made within such time. ii. Notification no. 40/2017-Central Tax (Rate) dated 23.10.2017 was issued under powers conferred by section 11 of the CGST Act, 2017. The exemption provided in notification No. 35/2020-Central Tax dated 03.04.2020 is applicable for section 11 as well. iii. Accordingly, it is clarified that the said requirement of exporting the goods by the merchant exporter within 90 days from the date of issue of tax invoice by the registered supplier gets extended to 30th June, 2020, provided the completion of such 90 days period falls within 20.03.2020 to 29.06.2020.
5.	Sub-rule (3) of that rule 45 of CGST Rules requires furnishing of **FORM**	Time limit for compliance of any action by any person which falls during the period

	GST ITC-04 in respect of goods dispatched to a job worker or received from a job worker during a quarter on or before the 25th day of the month succeeding that quarter. Accordingly, the due date of filing of **FORM GST ITC-04** for the quarter ending March, 2020 falls on 25.04.2020. Clarification has been sought as to whether the extension of time limit as provided in terms of notification No. 35/2020-Central Tax dated 03.04.2020 also covers furnishing of **FORM GST ITC-04** for quarter ending March, 2020	from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020 where completion or compliance of such action has not been made within such time. Accordingly, it is clarified that the due date of furnishing of **FORM GST ITC-04** for the quarter ending March, 2020 stands extended up to 30.06.2020.

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

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

(Yogendra Garg)
Principal Commissioner
y.garg@nic.in

(IV) ADVANCE RULINGS

1. GST on sub-contract of landscape development & maintenance of garden work for Govt dept

Case Name : **In re Nurserymen Cooperative Society Ltd (GST AAAR Karnataka)**
Appeal Number : Order No. KAR/AAAR-20/2020-21
Date of Judgement/Order : 04/05/2020

Appellant has received contract from Government departments like BBMP and KSRTC for undertaking gardening and landscaping activities. In order to execute the work, the Appellant has engaged sub-contractors. The sub-contractors bill the Appellant for the gardening and landscaping work done at the government departments. The Appellant in turn bills the Government department in terms of the contract given to them. The issue to be determined is whether the supply of services by the sub-contractor to the Appellant for executing the gardening and landscaping work for government departments is exempt from GST.

In the instant case, the issue being examined is whether the services supplied by the sub-contractors to the Appellant, who is the recipient of the services, is exempted from GST. The entries under Sl. No 3 and 3A above will apply only if the recipient of services is a Government (central/State/UT) or local authority or a Governmental authority or a Government Entity. In this case, the Appellant who is the recipient of the supply from the sub-contractor is a Co-operative Society and not an entity specified in Sl.No 3 and 3A. When this criterion of the Notification is not satisfied, the sub-contractors as suppliers of service, will not be eligible for the exemption under the entries 3 or 3A of the above said Notification.

It is the argument of the Appellant that if the exemption is not available to the subcontractors, then the GST paid by the Appellant on the inward supply from the subcontractors will become a cost to them since they will not be eligible to avail the input tax credit of the tax paid on the inward supply, for the reason that the output supply made by them to the Government Department is exempted. While we agree that the Appellant will not be eligible for the input tax credit of the tax paid on the inward supply from the subcontractors, we do not agree that this should be a ground for allowing the sub-contractors to avail the benefit of exemption. It is a well settled law that exemption notifications are to be interpreted strictly as to their eligibility. One cannot be influenced by extraneous factors while determining a person's eligibility to an exemption notification. Therefore, on a strict interpretation of the entry Sl.No 3 and 3A, we hold that the supply of services by the subcontractors to the Appellant is not eligible for the benefit of exemption under either SI..No 3 or 3 A of **Notification No 12/2017 CT (R) dated 28-06-2017**.

2. Micafungin sodium not entitled for concessional rate of 5% GST

Case Name : **In re Biocon Limited (DTA) (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 31/2020
Date of Judgement/Order : 04/05/2020

The phrase “Micafungin Sodium for Injection” very clearly specifies the manner of administering Micafungin Sodium in the body. The applicant, during the personal hearing, with regard to possibility of administering Micafungin Sodium by any way other than injection, have not put anything on record but have stated that they take a certificate/ undertaking from their customers that they would use it only for injections.

In view of the foregoing the question before us to decide is whether the bulk drug ‘Micafungin Sodium’ being supplied by the applicant qualifies to be ‘Micafungin Sodium for injection’, so as to attract the concessional rate of GST i.e. 5% GST. It is an admitted fact that the product being supplied by the applicant can not be directly administered as injection. The concessional rate of GST is applicable only to the product Micafungin Sodium which is ready for administering by way of injection. In the instant case the applicant supplies bulk drug Micafungin Sodium to their customers and hence the said drug becomes raw material to the said customers. The applicant contends that their bulk drug is essential for ‘Micafungin Sodium for injection’ and hence their bulk drug gets covered under the entry for concessional rate of GST. The entry would have been ‘Micafungin Sodium’, had the intention of the Government been to extend the benefit of concessional rate to the bulk drugs/raw material. Therefore 5% GST is not applicable to the bulk drug Micafungin Sodium, in terms of Sl.No.114 of List I to Entry No. 180 of Schedule I to the **Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017**.

In view of the foregoing, we pass the following The sale of Micafungin sodium by the DTA unit of the applicant is not covered under Serial No. 114 of Entry No. 180 of the **Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017** and therefore, is not entitled for concessional rate of GST at the rate of 5%

3. Incomes to be considered in Aggregate Turnover for GST Registration

Case Name : **In re Anil Kumar Agrawaal (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 30/2020
Date of Judgement/Order : 04/05/2020

Crux of the ruling:
1. The income received from
(i) salary/ remuneration as a Non-executive director of a private limited company
(ii) renting of commercial property
(iii) renting of residential property
(iv) values of amounts extended as deposits/ loans/ advances out of which interest is received
Are to be included in the aggregate turnover for registration

4. GST on development of land and sale of plots

Case Name : **In re M/s Maarq Spaces Private Limited (GST AAAR Karnataka)**
Appeal Number : Order No. KAR/AAAR-19/2020-21
Date of Judgement/Order : 04/05/2020

In the instant case there are two activities involved, viz: development of land and sale of plots. The transaction relating to the sale of land is not a supply of either goods or service under GST (entry 5 of Schedule III of the CGST Act refers). This activity of sale of land cannot be considered as an 'exempt supply' for the reason that the activity is not at all a supply and hence the question exempting it under Section 11 of the Act does not arise. On the other hand, the activity of development of land is a supply in terms of Section 7 of the CGST Act. A combination of two activities one of which is not a supply under GST cannot be said to be a composite supply. We therefore, disagree with this contention of the Appellant.

The Appellant has also put forth the argument that under the Karnataka Urban Development Authorities Act, 1987, they are required to permanently transfer the ownership of the roads, drains, water supply mains, parks and open spaces, civic amenity areas to the Urban Development Authority and where the law requires them to transfer the ownership of the developmental works, the Appellant has no right in entering into agreement for supply of service but can only enter into agreement for sale of land. In terms of Section 32 of the Karnataka Urban Development Authorities Act, any new layout can be formed only after getting the sanction from the Urban Development Authority. The person desirous of forming a layout has to send an application to the Urban Development Authority along with the plans. The said Authority will sanction the formation of the layout on payment of a fee by the applicant and provided the applicant agrees to transfer the ownership the roads, drains, water supply mains, parks and open spaces, civic amenity areas laid out by him to the Authority, permanently without claiming any compensation therefore. We find that para 4.2. of the JDA mandates that the landowner shall submit the finalised plans to the relevant governmental authorities to procure the sanctioned plan. The landowner shall obtain all required licenses, sanctions, consents, permissions, no-objections and such other orders as are required to procure the Sanctioned Plan. Further, in case the Appellant-Developer intends to modify the plans, the landowner shall obtain the required modifications to the sanctioned plan. The Appellant-Developer shall develop the project on the property subject to the obtaining of the sanctioned plan by the owners. Therefore, it is evident that the onus is on the landowner to comply with the provisions of Section 32 of the Karnataka Urban Development Authorities Act. It is the owner of the schedule property who agrees to transfer the ownership of the roads, drains, water supply mains, parks and open spaces, civic amenity areas to the Urban Development Authority. The Appellant-Developer has no role to play in obtaining the sanctions and in transfer of ownership. Therefore, this argument of the Appellant does not hold good.

The Appellant has also contended that there is no supply of any service by him to the landowners; that the JDA has been executed with a mutual agreement by both the parties to jointly develop the land and share the revenues out of the sale of land. In real estate transactions involving plotted development, one party owns the land and another party has the expertise to develop the land. The two parties come together with the common intention of developing the land and sharing the revenue accruing for the sale of the developed plots in the land. However, the landowners give the rights of using the land to the developer in exchange for which, the developer gives the service of developing the land of the owners. While the Joint Development agreement is entered into for the two parties to jointly reap the benefits of the sale of the land to customers, there is a clear rendering of a service by the developer to the landowner in developing the land which belongs to the landowner.

Therefore, we hold that the activity of developing the land is a supply of service by the Appellant.

5. Psyllium Husk Powder falls under HSN 12119032: AAR

Case Name : **In re Sarda Bio Polymers Pvt. Ltd. (GST AAR Rajasthan)**
Appeal Number : Advance Ruling No. RAJ/AAR/2020-21/02
Date of Judgement/Order : 06/05/2020

The applicant is engaged in manufacture of Psyllium Husk Powder in Pali having GST registration number 08AARCS9529A1ZZ. The applicant intends to seek clarification on the classification and rate of GST applicable on the Psyllium Husk Powder.

AAR held that Psyllium Husk Powder, a preparation made from Psyllium Plant or its parts is classifiable under HSN 12119032 and attracts GST @ 5% (CGST 2.5% + SGST 2.5%) as provided under Notification No. 1/2017 Central Tax (Rate) dated 28.06.2017 (as amended).

6. Mehendi /Henna powder falls under Chapter 33; Attracts 18% GST

Case Name : **In re Sunil Kumar Gehlot (Sunil Kumar & Co.) (GST AAR Rajasthan)**
Appeal Number : Advance Ruling No. RAJ/AAR/2020-21/01
Date of Judgement/Order : 06/05/2020

The applicant is engaged in manufacture of hair dye powder in Sojat city. The applicant intends to manufacture mehandi/henna powder in future and so wish to seek clarification on the classification and rate of GST applicable on the mehandi/henna powder.

AAR held that Mehendi /Henna powder is covered under Chapter 33 and will attract GST @18% (CGST 9% + SGST 9%).

7. GST on supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure

Case Name : **In re ARG Electricals Pvt. Ltd. (GST AAR Rajasthan)**
Appeal Number : Advance Ruling No. RAJ/AAR/2020-21/04
Date of Judgement/Order : 14/05/2020

1. Whether the contract entered into with AVVNL as per the work orders combine of supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure qualifies as a supply for work contract under Section 2(119) of the CGST Act?

♦ The work undertaken by the applicant as per Contract RGGVY/TN-13 entered between the applicant and AWNL along with two Work Orders viz. (a) Supply of Materials/Equipments and (b) Erection, Testing and Commissioning of Materials/Equipments (supplied in first work order) in building of rural electricity infrastructure is a Composite supply of Works Contract.

2. If Yes, whether such supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure made to AVVNL would be taxable at the rate of 12% in terms of Sr. No. 3(vi)(a) of the **Notification No.11/2017- Central Tax (Rate) dated 28.06.2017** as amended w. e. f. 25.01.2018?

♦ The work undertaken by the applicant as per Contract RGGVY/TN-13 (encompassing both work orders) is a Composite supply of Works Contract and is not covered under Entry No. 3(vi)(a) of the **Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017** (as amended) as consequentially are not eligible to be taxed at lower rate of 12% (SGST 6% + CGST 6%) and hence are liable to be taxed @18% (CGST 9% + SGST 9%).

8. Mining Support Service falls under HSN 998622 & attracts 18% GST

Case Name : **In re KSC Buildcon Private Limited (GST AAR Rajasthan)**
Appeal Number : Advance Ruling No. RAJ/AAR/2020-21/03
Date of Judgement/Order : 14/05/2020

Applicant is providing a support to M/s AMP in extraction of mineral and therefore it is a kind of supplying support Service. Whereas the supply cannot be categorized as that of goods due to the fact that minerals and mining site both are under the ownership of M/s AMP throughout agreement and post-agreement too. The applicant is just facilitating/supporting M/s AMP in extraction of the mineral. Thus the activity undertaken by the applicant is a 'Service' under CZGST Act, 2017.

Whereas, the mineral extracted by the applicant from the mining site is no doubt a 'goods' which is extracted from the land but since the applicant do not have any ownership of the said mineral and land before the agreement, in duration of agreement and post agreement therefore the activity is just a service to M.s AMP.

In view of the above, we find that the Applicant is providing supporting service related to mining. The said service is classifiable under HSN 998622. The rate of GST on the said service is 18% (CGST 9% + SGST 9%) as provided under the **Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017** (as amended).

9. GST applicable on sale of developed plots with amenities

Case Name : **In re Shree Dipesh Anilkumar Naik (GST AAR Gujarat)**
Appeal Number : Advance Ruling No. GUJ/GAAR/R/2020/11
Date of Judgement/Order : 19/05/2020

Whether GST is applicable on sale of plot of land for which, as per the requirement of approved by the respective authority (i.e. Jilla Panchayat),

Primary amenities such as, Drainage line, Water line, Electricity line, Land levelling etc. are to be provided by the applicant?

In present case, we find that the applicant is the owner of the land, who develops the land with an infrastructure such as Drainage line, Water line, Electricity line, Land levelling etc. as per the requirement of the approved Plan Passing Authority (i.e. Jilla Panchayat). After this development of the land, he sales developed land as plots. His sales price includes the cost of the land as well as the cost of common amenities, Drainage line, Water line, Electricity line, Land levelling charges, etc. on a proportionate basis.

We find that the activity of the sale of developed plots would be covered under the clause 'construction of a complex intended for sale to a buyer'. Thus, the said activity is covered under 'construction services' and GST is payable on the sale of developed plots in terms of CGST Act / Rules and relevant Notification issued time to time.

10. GST on Quarrying lease/license agreement for 'BLACKTRAP' material with State Govt

Case Name : **In re Raj Quarry Works (GST AAR Gujarat)**
Appeal Number : Advance Ruling No.GUJ/GAAR/R/2020/09
Date of Judgement/Order : 19/05/2020

The Applicant has entered into Quarrying lease/license agreement for 'BLACKTRAP' material with the Government of Gujarat. Following are the Questions Raised by Applicant and Replied by AAR-

(i) What is the classification of service provided in accordance with Notification 11/2017-CT (Rate) dated 28.06.2017 read with annexure attached to it, issued by the State Government to M/s Raj Quarry Works, for which royalty is being paid. Whether said service can be classified under Tariff Heading 9973, specifically under 997337 as Licensing services for the right to use minerals including its exploration and evaluation or as any other service?

Ans. The activity undertaken by the applicant is classifiable under Heading 9973 (Leasing or rental services, with or without operator), as mentioned in the annexure at Serial No. 257 (Licensing services for the right to use minerals including its exploration and evaluation) sub-heading 997337 of Notification Number 11/2017-C.T. (Rate), dated 28-6-2017

(ii) What is rate of GST on given services provided by State of Gujarat to M/s Raj Quarry Works for which Royalty is being paid?

Ans. The activity undertaken by the applicant attracts 18% GST (9% CGST+ 9% SGST).

(iii) Whether services provided by the State Government is governed by applicability of Notification No 13/2017-CT(Rate), dated 28.06.2017 under entry number 5 and whether M/s Raj Quarry Works is taxable person in this case to discharge GST under reverse charge mechanism or whether given service is

covered by exclusion clause number (1) of entry no 5 and State Government is liable to discharge GST on same?

Ans. The applicant is not covered under exclusion clause 1 of Sr. No. 5 of the Notification. Therefore, applicant is liable to discharge tax liability under reverse charge mechanism vide Notification No. 13/2017-C.T. (Rate), dated 28-6-2017 (as amended from time to time) of the CGST Act, 2017.

11. GST registration applicable to Medical Store run by Charitable Trust

Case Name : **In re Nagri Eye Research Foundation (GST AAR Gujarat)**
Appeal Number : Advance Ruling No. GUJ/GAAR/R/2020/08
Date of Judgement/Order : 19/05/2020

Whether applicant is required to be register Medical Store run by Charitable Trust and whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term. (lower rate)?

The applicant is a charitable trust which appears under the definition of 'person' and falls at clause(m) of sub-section 84 of Section 2 of the CGST Act, 2017.As per definition, a charitable trust is a person as per clause (m) of sub section 84 of section 2 of CGST Act, 2017. The applicant is providing medicines from its medical store at lower rate, so activity of dealer is to provide medicines with less pecuniary benefit. As per the definition of 'business' any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit is termed as business. Hence, it is clear that any trade carried out whether for pecuniary benefit or not is a business as per CGST Act, 2017. Therefore, the applicant is carrying out business activity as per CGST Act, 2017.

8. Applicant is selling medicines from its medical store. Medicine is goods as per subsection 52 of Section 2 of the CGST Act, 2017. Medicine is a taxable supply as per sub section 108 of section 2 of CGST Act, 2017 and GST is leviable on medicine as per Chapter-30 of HSN code. Therefore, sale of medicine by the applicant is a taxable supply of goods. Applicant is providing medicines from its medical store at lower rate so price paid by the customers is consideration for the applicant as defined in sub-section 31 of Section 2 of the CGST Act, 2017. Further, the activity of supply of goods by the applicant does not fall under the list appearing in Schedule-III of the CGST Act, 2017. Therefore, we conclude that the applicant is making taxable supply from its medical store, so as and when aggregate turnover (here medicine) of applicant exceeds threshold limit as specified in sub-section(1) of Section 22 of the CGST Act, 2017, the applicant has to obtain registration under the relevant provisions of the CGST Act, 2017.

12. Supply under Automatic Fare Collection project qualifies as 'composite supply'

Case Name : **In re NEC Technologies India Pvt. Ltd (GST AAR Gujarat)**
Appeal Number : Advance Ruling No. GUJ/GAAR/R/2020/07
Date of Judgement/Order : 19/05/2020

Question 1: Whether the supply made by the applicant under the Automatic Fare Collection (AFC) project would qualify as: (a) 'works contract' defined under section 2(119) of the CGST Act, 2017; or (b) 'composite supply' defined under section 2(30) of the CGST Act, 2017?

Answer: The supply made by the applicant under the Automatic Fare Collection (AFC) project would qualify as 'composite supply' defined under section 2(30) of the CGST Act, 2017.

Question 2: Whether the supply made by the applicant under the AFC project would qualify as an original works meant predominantly for use other than for commerce, industry, or any other business or profession, thereby attracting GST rate of 12% provided in the Notification No. 24/2017-Central Tax (Rate) dated 21st September, 2017?

Answer: The supply made by the applicant under the AFC project does not qualify as an original works meant predominantly for use other than for commerce, industry, or any other business or profession, thereby GST rate of 12% provided in the Notification No. 24/2017-Central Tax (Rate) dated 21st September, 2017 would not be applicable.

Question-3 Whether the HSN classification of supply made by the applicant would fall under '8470' or '9954'?

Answer: The HSN classification of the supply made by the applicant is to be '8470 The Rate of GST for the same is 18%.

Question-4: Whether the maintenance and management services post implementation would qualify as composite supply as defined under section 2(30) of the CGST Act, 2017? Further, whether such supply would be eligible for exemption under Notification No.12/2017-Central Tax (Rate) dated 28th June, 2017 in case value of supply of goods constitutes not more than 25% of the value of the said composite supply?

Answer: The maintenance and management services to be provided post implementation of the AFC system under proposed contract would qualify as "composite supply" with the AFC system, being the principle supply, as defined under section 2(30) of the CGST Act, 2017. Further, such supply would not be eligible for exemption provided under Notification No.12/2017-Central Tax (Rate) dated 28th June, 2017 as amended by the Notification No.02/2018-Central Tax (Rate) dated 25th January, 2018, as (i) the value of the supply of all goods (i.e. hardware for AFC System & spares for its repairs) under the proposed contract constitutes more than 25% of the value of the said composite supply; and (ii) the said composite supply is to be made to the SMC and M/s SSCDL, which is a company incorporated under the Companies Act, 2013 and, hence, not fall under the definition of the local authority or a Governmental authority or a Government Entity.

13. No ITC on transportation of employees which is not obligatory under Law

Case Name : **In re Prasar Bharti Broadcasting Corporation of India (GST AAR Himachal Pradesh)**

Appeal Number : Advance Ruling No.HP-AAR-1/2020
Date of Judgement/Order : 19/05/2020

Applicable GST rate on renting of motor cab service.

The applicable rate of tax on renting of cabs as per **Notification No. 20/2017 dated 22.08.2017** is 5% with limited ITC (of input services in the same line of business) and 12% with full ITC.

Whether ITC will be available to the recepient on the renting of motor cab service for transporation of employees?

If the facility provided by a taxpayer for transportation of employees is not obligatory under any law, for the time being in force then no ITC will be available to such a taxpayer. The applicant will however be eligible to claim ITC for the service supplied at 12% GST Rate if the conditions laid down in the second proviso to section 17 (5)b are satisfied.

14. 18% GST payable on service provided to NCBS

Case Name : **In re Hombale Constructions And Estates Private Limited (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 34/2020
Date of Judgement/Order : 20/05/2020

Whether applicant should charge GST @12 % for service provided to NCBS as per *Notification No 24/2017 Central Tax (Rate) dated 21-09- 2017* **?**

NCBS began as a separate centre of TIFR in 1992, first in the Molecular Biology Unit at TIFR in Bombay, and then at the IISc Campus in Bangalore where its laboratories are established. The Government of India has agreed to fund the institute and the institute was to function as an “autonomous unit under the aegis of TIFR . . .”. Hence it is clear that NCBS is neither set up by an Act of Parliament or State Legislature nor is established by any Government. Further the council which administers this institute has only four members appointed by the Government and hence the Government does not have more than 90% control over it. One more important point to note is that this institute is not established to carry out a function entrusted by the Government. Hence, for all these reasons, NCBS is not covered under the definition of a “Government Entity” as per the clause (x) of paragraph 4 of **Notification No.11/2017 – Central Tax (Rate) dated 28.06.2017**.

Further, clause (vi) has a proviso which reads as under:

“Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be”

Even here, to be covered under this clause, the services must be procured by NCBS in relation to a work entrusted to it by the Government, which is not the case.

In view of the above, the service supplied by the applicant is not covered under clause (vi) of Serial No.3 of **Notification No.11/2017 – Central Tax (Rate) dated 28.06.2017** as amended from time to time and hence is not taxable at 6% CGST and 6% KGST. And it is taxable at 9% CGST and 9% KGST under the residual item no. (xii) of Serial No.3 of **Notification No.11/2017 – Central Tax (Rate) dated 28.06.2017** as amended from time to time.

15. Retrofitted vehicle merits classification under heading 87112019

Case Name : **In re Sai Motors (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 32/2020
Date of Judgement/Order : 20/05/2020

The retrofitted vehicle merits classification under heading 8711 20 19 and hence attracts GST @ 28% and applicant is entitled for input tax credit of tax paid on purchase of vehicle i.e. scooter.

16. Kraft paper/ paper honeycomb board classifiable under heading 48089000

Case Name : **In re LSquare Eco Products Pvt Ltd (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 33/2020
Date of Judgement/Order : 20/05/2020

Whether the HSN code applicable for kraft paper made honeycomb boards be 48081000 or 48089000?

On verification of the structure and purpose for which kraft paper honeycomb board or paper honeycomb board used are similar to the corrugated paper board (listed under 48081000), only difference is that this paper honeycomb board consists of honey comb like structure core material at the centre and on either side of this one or more layer of kraft paper is glued by using adhesive with fluting direction being perpendicular to corrugated boards. Hence this honeycomb paper board classified under the heading 48089000 as other instead 48081000.

17. GST not applicable on transaction occurring outside India

Case Name : **In re Dolphine Die Cast (P) Ltd (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 35/2020
Date of Judgement/Order : 20/05/2020

In the case of manufacture of Die by the applicant and invoiced to the recipient, without moving the goods, the applicant has to raise the tax invoice addressed to the foreign buyer. Since it is an intra-State supply, he has to collect the CGST and SGST and discharge the liability. The applicant is not eligible to claim said payment as input tax credit on the invoice raised by him as he is not the recipient. Further if the said steel die is scrapped at applicant's end as per the instruction of the overseas customer without moving out of the country, while supplying the die scrap to the third party, the applicant has to issue intra/interstate tax invoice depending upon the

nature of the transaction and collect and pay the applicable tax as per the provisions of the GST Acts.

2. In the case of manufacture of Die by the Thailand supplier, if applicant physically imports the Die to a place in India then applicant has to pay the IGST on reverse charge mechanism and claim the IGST tax paid as input tax credit, subject to conditions applicable. Further if the steel die belonging to the applicant is scrapped at the location of the overseas supplier without die coming to India, then such transaction is occurring outside the taxable territory, i.e. India and hence not under the purview of GST Acts.

18. TDS under GST is applicable only for taxable supply contracts

Case Name : **In re Mahalakshmi Mahila Sangha (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 36/ 2020
Date of Judgement/Order : 21/05/2020

The supply of services made by the applicant in the form of supply of food and drinks to the educational institutions is covered under entry no. 66 of **Notification No.12/2017-Central Tax (Rate) dated 28.06.2017** and entry 66 of Notification (12/2017) No. FD 48 CSL 2017 dated 29.06.2017 and are hence exempted from CGST and SGST.

As per **Circular 65/39/2018** also TDS under GST is applicable only for taxable supply contracts

The amount received for such exempted service as covered under para 1 above is not liable for tax deduction at source under section 51 of the CGST Act and section 51 of KGST Act.

19. GST on preparation of Whole Wheat parota & Malabar parota

Case Name : **In re ID Fresh Food (India) Pvt. Ltd. (GST AAR Karnataka)**
Appeal Number : Advance Ruling No. KAR ADRG 38/2020
Date of Judgement/Order : 22/05/2020

Whether the preparation of Whole Wheat parota and Malabar parota be classified under Chapter heading 1905, attracting GST at the rate of 5%?

Chapter 21, covers Miscellaneous Edible Preparations and heading 21.06 covers food preparations not elsewhere specified or included. Further Explanatory Notes to the Harmonized Commodity Description and Coding System, with regard to heading 2106, at clause (A) specify that the said heading 2106 90 covers Preparations for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk, etc.), for human consumption, provided that they are not covered by any other heading of the Nomenclature. In the instant case the impugned goods i.e. ‘parota’ are not covered under any other heading and also need to be processed for human consumption. Therefore the impugned goods are rightly classifiable, more specifically, under heading 2106 90.

GST rate of 5% is applicable to the products subject to fulfillment of the conditions that (i) they should be classified under heading 1905 or 2106 and (ii) they must be either khakhra, plain chaptatti or roti. In the instant case the first condition of classification is fulfilled as the classification of the impugned products has been resolved as 2106. As for as the second condition is concerned the impugned products are described as “parota” and hence are neither khakhra, plain chaptatti nor roti. Further the products khakhra, plain chaptatti or roti are completely cooked preparations, do not require any processing for human consumption and hence are ready to eat foods preparations, whereas the impugned products are not only different from the said khakhra, plain chaptatti or roti but also are not like products in common parlance as well as in respect of the essential nature of the product. These products also require further processing for human consumption, as admitted by the applicant. Thus the benefit of entry No.99A of Schedule I to the Notification No.l/2017-Central Tax (Rate) dated 28.06.2017, as amended vide Notification No.34/2017-Central Tax (Rate) dated 13.10.2017 is not applicable to the instant case and the applicant is not entitled for the same.

20. GST on royalty to State Govt under RCM for Reta, Bazri & Boulders

Case Name : **In re Uttarakhand Forest Development (GST AAR Uttarakhand)**
Appeal Number : Advance Ruling No. UK-AAR-01/2020-21
Date of Judgement/Order : 29/05/2020

What will be applicable rate for GST on royalty payable to Govt of Uttarakhand under RCM in respect of Reta, Bazri & Boulders extracted as per the permission of Govt authorities.

The services rendered by the applicant during the period 01.07.2017 to 31.12.2018 attract GST at the same rate of central tax as on supply of like goods involving transfer of title in goods i.e 5% and w.e.f 01.01.2019 the said service attract GST@ 18%.

21. Services rendered by GTA liable to GST under RCM: Consignment note not must

Case Name : **In re Uttarakhand Forest Development Corporation (GST AAR Uttarakhand)**
Appeal Number : Advance Ruling No. UK-AAR-02/2020-21
Date of Judgement/Order : 29/05/2020

As per the provisions of section 9(3) of Act, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. We find that a list of goods on which GST is payable under section 9(3) of the Act is given in the Notification No. 4/2017-Central Tax (Rate) dated 28.06.2017 and the category of services on which tax is

payable is enumerated in the Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017. On perusal of Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017, I find that the services rendered by the 'Goods Transport Agency" in short (GTA) falls under 'Reverse Charge Mechanism' (in short RCM).

Further we find that services provided by "GTA" in respect of transport of goods by road is a taxable event. As per Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.

Purpose of issuing consignment note indicates that the lien on the goods has been transferred to the transporter and the transporter becomes responsible for the goods till its safe delivery to the consignee. In the present case also, by issuing Form 2.1 by the applicant, the goods are handed over to the transporter and transporter becomes responsible for the goods till its safe delivery to the destination. For the sake of argument that for being treated as goods transport agency issuance of consignment note is must. If such argument is accepted than there will be no need to pay GST by a person providing service of goods transport merely on a ground that he is not issuing consignment note. And this will open an avenue for evasion by the service providers. This must not have been the intention of the legislature to not tax the service providers who were not issuing consignment notes.

(V) COURT ORDERS/ JUDGEMENTS

1. Tax Dues not barred by Insolvency Proceedings under IBC

Case Name : **Electrosteel Steels Limited Vs State of Jharkhand (Jharkhand High Court)**
Appeal Number : W.P.(T). No. 6324 of 2019, W.P.(T). No. 6325 of 2019, W.P.(T). No. 6326 of 2019, W.P.(T). No. 6327 of 2019
Date of Judgement/Order : 01/05/2020

Facts The assessee company had challenged the garnishee order issued u/s 46 of the JVAT Act, asking the respondent Bank to pay into the Government Treasury, the sum of Rs. 37,41,41,602, on account of tax / penalty due under the JVAT Act, from the assessee company, who failed to deposit the taxes for the period from 2011-12 & 2012-13, from the Bank account of the Company. The assessee Company had also challenged the letter dated 22.11.2009, issued by the State Tax Officer, Bokaro to the Respondent Bank, to deposit the amount of Rs.75,57,000/- by way of demand draft in favour of the Deputy Commissioner, Commercial Taxes, Bokaro in view of the fact that pursuant to the garnishee order, the respondent Bank had furnished the information that only the amount of Rs.75,57,000/- was available in the assessee's account. The assessee claimed that the amount, could no more be realised by the State Government from the Company, in view of the fact that the State Bank of India had filed a Company Petition, before the NCLT under the IB Code, which was admitted by the NCLT and the interim resolution professional was appointed. The resolution plan was made and approved. Upon approval of the Resolution Plan, M/s. Vedanta Limited took over the management of the assessee Company. According to the assessee, since no claim was made by the State Government as regards the tax liability in the corporate insolvency resolution process, the claim of the Government was now barred u/s 31 of the IB Code.

Decision of the Hon'ble High Court

Whether once resolution plan is approved, tax liability of Company which is not claimed by the State Government during insolvency resolution process, is completely barred under Section 31 of the IB Code – **NO**

Whether if State Government has never been involved in corporate insolvency resolution process, such plan cannot be a binding on it and it can claim outstanding tax liabilities – YES

2. HC accepts plea challenging validity of provisions related to Constitution of AAR/AAAR

Case Name : **Chambal Fertilisers And Chemicals Limited Vs Union Of India (Rajasthan High Court)**
Appeal Number : Civil Appeal No. 7091/2019
Date of Judgement/Order : 03/05/2019

The petitioner has challenged the constitutional validity of Section 96(2) of the **Rajasthan Goods and Service Tax Act, 2017** for short, 'the RGST Act') and Section 96 of the **Central Goods and Services Tax Act, 2017** (for short, 'the CGST

Act') to the extent they prescribe for constitution of the Authority for Advance Ruling (for short, 'AAR') consisting of members from amongst the officers of Central tax and the officers of State tax, and Rule 103 of the CGST Rules and Rule 103 of the RGST Rules, and prayed for declaring the same as arbitrary and unconstitutional. The petitioner has further prayed to declare the provisions of Section 99 of the CGST Act and Section 99 of the RGST Act to the extent they prescribe for constitution of the Appellate Authority for Advance Ruling (for short, 'the AAAR'), which consists of Chief Commissioner of Central Tax and Commissioner of State Tax, as its members, as arbitrary and unconstitutional.

Contention of the petitioner is that as per Section 97 of the CGST Act, AAR and AAAR have been enforced to determine, apart from other issues, liability to pay tax on any goods or service or both. According to Section 105 of the CGST Act, the AAR/AAAR would have the powers of civil court under the Code of Civil Procedure in relation to specified items and proceedings before them would be deemed to be judicial proceedings. Learned counsel for the petitioner relying on the Constitution Bench judgment of the Supreme Court in Union of Inida Vs. R. Gandhi and Others – (2010) 11 SCC 1 submitted that composition of any such Authority/Tribunal ought to have a Member from judicial background as they have been empowered to discharge judicial functions.

It is argued that in case of import of goods on FOB basis, the petitioner avails the Transportation Services of the Transporter, i.e., foreign shipping company for bringing the goods into India and is liable to pay consideration for the Transportation Services, and, therefore can be considered as recipient of services and liable to pay IGST on reverse charge basis. According to proviso to Section 5(1) of the IGST Act the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975. Section 3 of the Custom Tariff Act, 1975 levies the additional duty of goods imported to the territory of India. Section 14(1) of the Customs Act lays down that the value of imported articles shall be the transaction value of such goods, which is the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation where the buyer and seller of the goods are not related and price is the sole consideration for the sale. According to second proviso to Section 14(1) of the Customs Act, the 'transaction value' of the imported article among other charges, as specified, will also include 'cost of transportation to the place of importation'. Rule 10 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 lays down the provisions to determine the 'transaction value' of the imported goods, which will also include the transportation services. Thus, levy of IGST twice on transportation services, i.e., under the impugned notification, amounts to double taxation.

Challenge in this petition is also made to the notification dated 28.6.2017 to the extent of declaring Entry 10 which notifies 'importer' as the 'recipient' of service for the levy of IGST on reverse charge mechanism and authorizing levy on the Importer in case of import of goods on CIF basis as ultra-vires to Section 5(3) of the **IGST Act, 2017**. According to Section 5(3) of the Integrated Goods & Service Tax Act, 2017 (for short, 'the IGST Act') the Government is empowered to notify the category for supply of goods or services or both, the tax on which shall be paid on reverse charge basis. The term of 'recipient' has been defined under Section 2(93) of the CGST Act, which states that in cases where a consideration is payable for the supply

of goods or services or both, the person who is liable to pay the consideration for supply of goods or services. Section 2(26) of the Customs Act, 1962, provides that in relation to importation of goods, importer includes any owner, beneficial owner or any person holding himself out to be the importer. However, the respondent no.1 Union of India has, vide impugned notification dated 28.06.2017, also notified 'recipient of service', thereby exceeding the power conferred by Section 5(3) of the IGST Act. In case of transaction on CIF basis, i.e., the exporter/supplier of goods receives the Transportation Services from the foreign shipping company and he is the person liable to pay to the transporter of goods, i.e., foreign shipping company. Hence, as per Section 2(93) of the CGST Act, the said exporter shall be considered as 'recipient of service'. However, the impugned notification has been illegally shifted the liability to pay IGST on the 'importer' who is not the recipient of the services in case of import on CIF basis.

Learned counsel has cited the orders passed by **Gujarat High Court in Special Civil Application No.726/2018 (Mohit Minerals Pvt Ltd. Vs. Union of India) dated 9.2.2018** and **12.12.2018.**

Issue notice, returnable by 10th July, 2019. Requisite number of copies of petition be served in the offices of Mr. R.D. Rastogi, learned Additional Solicitor General and Mr. M.S. Singhvi, learned Advocate General, and receipts of the same be filed in the Registry. The service on the respondents may thereupon be treated complete. Names of Mr. C.S. Sinha on behalf of learned Additional Solicitor General and that of Mr. Ronak Singhvi on behalf of learned Advocate General be shown in the cause list.

In the meanwhile, no coercive steps be taken against the petitioner.

3. Delhi HC allows Form GSTR-3B rectification- Dept. cannot take benefit of its own wrong

Case Name : **Bharti Airtel Limited Vs Union of India & Ors. (Delhi High Court)**
Appeal Number : W.P. No. 6345/2018
Date of Judgement/Order : 05/05/2020

Delhi High Court held that the failure of the Government to operationalise the statutory returns, GSTR 2, 2A and 3 prescribed under the CGST Act, cannot prejudice the assessee. The GSTR 3B which was merely a summary return as an alternative did not have the statutory features of the returns prescribed under the Act. Therefore, if there were errors in capturing ITC on account of which cash was paid for discharging GST liability instead of utilising ITC which could not be captured correctly at that time, the return should be allowed to be rectified in the very month in which the ITC was not recorded and the cash paid should be available as refund. The High Court read down the circular which did not permit such rectification as being contrary to the scheme of the CGST Act.

4. Allow all assessees to claim ITC in GST TRAN-1 by 30.6.2020: Delhi HC

Case Name : **Brand Equity Treaties Limited Vs Union Of India (Delhi High Court)**
Appeal Number : W.P.(C) 11040/2018 and C.M. No. 42982/2018

Date of Judgement/Order : 05/05/2020

Hon'ble Delhi High Court has held that period of 90 days for claiming input tax credit in TRAN-1 is directory and therefore, period of limitation of 3 years under the Limitation Act would apply. The Court has directed the Department to allow all assessees to claim input tax credit in TRAN-1 by 30.6.2020. The direction would apply to all those who could not file TRAN-1 and claim input tax credit. The court has further directed that it should be advertised that all taxpayers who have not filed TRAN 1 can do so by 30.6.2020. The judgment has been made applicable to all irrespective of whether the taxpayer has approached the court or not.

5. SC: No writ can be issued to challenge assessment order foreclosed by law of limitation

Case Name : **Assistant Commissioner CT (LTU) Vs Glaxo Smith Kline Consumer Health Care Limited (Supreme Court)**
Appeal Number : Civil Appeal No. 2413/2020
Date of Judgement/Order : 06/05/2020

Power of Supreme Court & High Court under Articles 142 and 226 to entertain a challenge to the assessment order on the sole ground that the statutory remedy of appeal against that order stood foreclosed by the law of limitation however the statutory period prescribed for redressal of the grievance could not be disregarded and a writ petition could not be entertained as doing so would be in the teeth of the principle that the Court could not issue a writ which was inconsistent with the legislative intent. That would render the legislative scheme and intention behind the statutory provision otiose. No finding had been recorded by the High Court against the writ petition filed by assessee that it was a case of violation of principles of natural justice or non-compliance of statutory requirements in any manner, therefore, writ petition filed against foreclosure of same by law of limitation was not sustainable.

6. Exercising writ jurisdiction inconsistent with legislative intent would render legislative scheme and intention otiose

Case Name : **Assistant Commissioner (CT) LTU Vs Glaxo Smith Kline Consumer Health Care Limited (Supreme Court)**
Appeal Number : Civil Appeal No. 2413/2020
Date of Judgement/Order : 06/05/2020

Held – **Judgment of the High Court was set aside since Writ Petition filed, when assessee could well avail alternative remedy prescribed in the statute. Question of law no longer Res integra.**

Held –Exercising jurisdiction inconsistent with legislative intent would render the legislative scheme and intention behind the stated provision 'otiose'.

Assessee / Respondent further tried luck in light of decision of three judges bench in *ITC Ltd. & Anr. v UOI (1998) 8 SCC 610* – wherein the court permitted to resort to remedy of statutory appeal and directed the appellate authority to decide the appeal

on merits, after having case travelled to Supreme Court, however of no avail. Court observed in ITC (supra) counsel had no objection for deciding the case afresh.

7. No interest liability in case of Technical Glitch while filing GSTR 3B- Gujarat HC

Case Name : **Vishnu Aroma Pouching Pvt. Ltd. Vs Union of India (Gujarat High Court)**
Appeal Number : Civil Application No. 01/2019 in R/Special Civil Appeal No. 5629 of 2019
Date of Judgement/Order : 07/05/2019

Hon'ble High court held in the favour of assessee that assessee had duly discharged his tax liability by depositing the requisite funds in Cash ledger and without any of the fault of assessee but because of the technical glitch the same could not be offset, therefore it will be in interest of justice not to fasten interest liability upon the assessee.

8. Orders Passed without Fair Opportunity during Lockdown violates Principle of Natural Justice

Case Name : **Walchandnagar Industries Limited Vs Commercial Tax Officer (Andhra Pradesh)**
Appeal Number : WP 8425/2020 & 8451/2020
Date of Judgement/Order : 11/05/2020

Hon'ble SC time barring judgment binding on all – An important practical **judgement** pronounced on Ex-parte Assessment Orders by Vat Commercial Tax Authorities in which Hon'ble HC held that Order passed by Hon'ble Supreme Court is binding on all citizens/ tribunals/ courts of the country, including those exercising quasi judicial functions. HC Directs the respondent to give two weeks notice after the central govt relaxes the lockdown in India.

Issue Covered:

Request for adjournment for Personal Hearing owing to pandemic situation due to COVID 2019 denied.

Assessment Order passed by the Respondent under the provisions of the Andhra Pradesh Value Added Tax Act 2005 in AO No 207184 dated 17.04.2020 for the period 06/2014 to 03/2016 as illegal, arbitrary, bad in law without jurisdiction and bereft of any valid reasons violative of principles of natural justice and violative of Articles 14, 191g and 265 of the Constitution of India and consequently set aside the same.

9. HC not to interfere despite Writ application filed, when order in form GST MOV 11 already been passed

Case Name : **Shiv Agro Vs State of Gujarat (Gujarat High Court)**
Appeal Number : R/Special Civil Appeal No. 7046 of 2020
Date of Judgement/Order : 11/05/2020

For final decision regarding confiscation of goods and conveyance under GST, the applicant has to file statutory appeal under Section 107 of the G.S.T. Act before the appellate authority. Filing writ petition before court will not able to solve the issue since they will not interfere in the matter since form GST MOV11 has already been passed by the concerned authority.

10. HC directs department to conduct CST Assessment after providing Opportunity of Cross-Examination to Dealer

Case Name : **Munesh Enterprises, Guna through its Proprietor Pratap Singh Dhakad Vs State of M.P. and another (Madhya Pradesh High Court)**
Appeal Number : W.P. No. 7965 of 2015
Date of Judgement/Order : 11/05/2020

It appears that grant of an opportunity to cross-examine is a concomitant of the expression “Reasonable Opportunity”. In the instant case, the matter was remanded by the State only for the purpose that opportunity of cross-examination which was not afforded to the petitioner in respect of the documents of the Krishi Upaj Mandi Samiti, Guna (M.P.) should now be afforded. However, when the matter was taken up after receipt on remand, the Appellate Authority seems to have brushed aside the prayer for cross-examination by presuming without any basis that the records being 17 years old may not be available with the Krishi Upaj Mandi Samiti, Guna (M.P.). The least that was required of the Appellate Authority was to afford an opportunity to the petitioner to produce those records or to summon those records directly from the Krishi Upaj Mandi Samiti, Guna (M.P.), as the case may be and if the attempt would have failed then the Appellate Authority/Assessing Authority was well within its powers to proceed in accordance with law, but not otherwise.

Since the Appellate Authority has passed the impugned order by assigning reasons which cannot stand the test of reasonableness as authority fails to even address the issue in its right perspective, this Court is of the considered view that the power of judicial review deserves to be exercised u/Art.226 of Constitution in favour of the petitioner.

Consequently, the petition stands allowed to the extent indicated below:-

(i) The impugned order Annexure P-14 dated 31.01.2012 passed by the Additional Commissioner, Commercial Tax, Gwalior (M.P.) is hereby set aside.

(ii) The orders dated 07.12.2006 [Annexure P-11A to Annexure P-11F] are further quashed.

(iii) The respondents are now directed to conduct reassessment proceedings by granting reasonable opportunity to the petitioner of cross-examination in respect of the documents pertaining to the Krishi Upaj Mandi Samiti, Guna (M.P.).

(iv) However, it is made clear that in case the petitioner fails to produce the documents after grant of reasonable opportunity and if the Assessing Authority in

exercise of its powers under the relevant Act is unable to procure the said documents then the petitioner may be allowed to cross-examine any witness in the know of the said documents.

11. TNVAT: No Purchase Tax if yearly turnover was less than Rs. 300 crores

Case Name : **Sunrise Foods Private Limited Vs Assistant Commissioner (CT) (FAC) (Madras High Court)**
Appeal Number : W.P. No. 21982 to 21987 of 2016
Date of Judgement/Order : 19/05/2020

Conclusion: Liability of Purchase Tax under Section 12 of the Tamil Nadu Value-added Tax Act, 2006 was not attracted in case assessee's turnover was also below Rs. 300 Crores during the year.

Held: Assessee, a dealer of turmeric had locally purchased turmeric from various registered/unregistered dealers without payment of tax as their turnover were reportedly below Rs.300 crores during the respective assessment year and were therefore exempted under Section 15 read with Item 18, Part B, 4th Schedule of the of the Tamil Nadu Value Added Tax Act, 2006. The purchased stock were transferred stock by assessee to its branches outside the State of Tamil Nadu for branding, packing and labelling and other activities and were purportedly sold from there on payment of tax. Regular assessments for the respective assessment years were completed earlier. Thereafter, assessment orders were reopened under Section 22 of the Tamil Nadu Value Added Tax Act, 2006 pursuant to an investigation by the Commercial Tax Department on the ground that assessee had failed to pay purchase tax under Section 12(1) of the Tamil Nadu Value Added Tax Act, 2006. These proceedings culminated in the impugned order of the Commercial Tax Department wherein assessee had been asked to pay the purchase tax and penalty. It was held that if the total turnover of assessee during the relevant year did not exceed Rs. 300 crores as per Section 12(1) of the Tamil Nadu Value Added Tax Act, 2006 the tax payable by assessee would be at the rates specified in the "Schedules to this Act"which would mean the rate specified in Entry 18, Part B, IV Schedule to the Tamil Nadu Value Added Tax Act, 2006. If however on the other hand, the turnover of assessee had exceeded Rs.300 crores, assessee would be liable to pay tax at the rate prescribed in Item 52, Part B, I Schedule to the Tamil Nadu Value Added Tax Act, 2006 as that would be the rates specified in the "Schedules to this Act". This was a factual matter which would require a proper determination. Accordingly, the impugned orders were quashed. Officer was therefore directed to pass a fresh order on merits after giving assessee an opportunity of hearing either in person or through video- conference in view of the risk on account of the threat of Covid-19 The remand proceeding should be confined to purchase tax under Section 12(1) of the Tamil Nadu Value Added Tax Act, 2006 alone.

12. TNVAT: Excess ITC at year end has to be refunded, No adjustment against Future liability

Case Name : **Tvl. M. R. Motor Company Vs Assistant Commissioner (CT), (FAC) (Madras High Court)**
Appeal Number : W.P.No.31044 of 2013
Date of Judgement/Order : 19/05/2020

The issue under consideration that whether the Department was justified in disallowing the refund of claim on the ground that the petitioner was still in business and was adjusting the amount regularly?

The petitioner is a dealer of Motor Vehicles who had claimed a refund of excess Input Tax Credit and requested the respondent to refund a sum being accumulated as Input Tax Credit. The respondent has rejected the refund by giving reason that the petitioner have carried forwarded the closing balance of the Input Tax Credit Accumulation to next year as opening balance and adjusted against the output tax liability of next year.

As per Rule 10, where the Input Tax Credit determined by the Assessing Authority exceeds the tax liability for that year, a dealer may just the excess Input Tax Credit against any tax arrears or any other amount due. “Any other amount due” can be adjusted towards any tax arrears only. Hence, if after such adjustment there was still excess of Input Tax Credit, an Assessing Authority was bound to serve a notice in Form P to the dealer . Form P is the prescribed format for refund of excess Input Tax Credit to a dealer after such adjustment.

HC are of the view that denial of benefit of the notification to the appellant was unfair. There can be no doubt that the authorities functioning under the Act must, as are in duty bound, protect the interest of the Revenue by levying and collecting the duty in accordance with law — no less and also no more. It is no part of their duty to deprive an assessee of the benefit available to him in law with a view to augment the quantum of duty for the benefit of the Revenue. They must act reasonably and fairly. Therefore, the order passed by the respondent cannot be sustained.

13. Mandatory Deposit of 20% of Tax liability is must for filing VAT appeal before Tribunal

Case Name : **Shivshankar Solvent Extraction Private Limited Vs Commissioner, Commercial Tax Civil Lines (Chhattisgarh High Court)**
Appeal Number : Writ Appeal No. 211 of 2020
Date of Judgement/Order : 26/05/2020

The issue under consideration is whether High Court can give relaxation from mandatory deposit of tax u/s Section 48(4)(ii) before filing appeal in front of Tribunal?

High Court States that they do not find any tenable ground calling interference in the writ petition order since As per Section 48(4)(ii) of the VAT Act, it is mandatory to deposit the tax at least 20% of tax as pre deposit to sustain the appeal. Further, they state that looking to the facts and circumstances, if time for depositing mandatory deposit is not extended, appellant will remain unheard, which will be prejudicial to the

interest of the appellant, HC direct that 30 days' time granted by Single Judge against writ petition will start from the date of passing of this High Court order.

14. 'Works Contract' for fitting out any movable property into patient's body in course of medical procedure was liable for VAT

Case Name : **MIOT Hospitals Ltd Vs State of Tamil Nadu (Madras High Court)**
Appeal Number : W.P.Nos. 2982 to 2987 of 2012
Date of Judgement/Order : 28/05/2020

Conclusion: Works contract for fitting out or implanting of prosthetics into the physiology or the body of the patient for alleviation of pain or for improvement of the life of the patient in the course of medical/surgical procedure could be construed as 'works contract' liable for VAT under the provisions of the Tamil Nadu Value Added Tax Act, 2006.

Held: The issue arose for consideration was whether in the course of provision the medical service, assessee who were private hospitals were liable to pay Value Added Tax (VAT) under the provisions of the Tamil Nadu Value Added Tax Act, 2006 on the stents, valves, medicines, x-ray and other goods used while treating their in house patients? Assessee-hospital claimed that they did not charge any amount separately towards the cost of these items and charge a consolidated amount from the patients towards cost of medical treatments and it was inclusive of all the expenditure incurred by it and therefore State was not entitled to issue the impugned notices. State asked assessee to pay **Value Added Tax (VAT)** on the purported deemed sale of stents, valves, hip replacement and knee replacement etc. in the course of provision of medical services by assessee-hospital as "works contract" within the meaning of Section 2(43) of the Tamil Nadu Value Added Tax Act, 2006 chargeable to tax under Sections 5/6 of the said Act. It was held that the definition of "works contract" can include hospital/health/Medical services involving composite contracts where there is not only a provision of service but also supply of goods along with such service. The definition takes within its fold such services also. State was therefore justified in proposing a demand to tax assessee goods along with such service. There was not only transfer of possession of prosthetics into the physiology of the patient but also the ownership of such prosthetics to the patient for consideration in the course of the provision of medical/health service. Similarly, in the course of taking x-ray, scan, MRI/CT Scan for such in-patient, cost of which get included into the package were taxable as such activity could be termed as the processing of movable property. Therefore, fitting out or implanting of prosthetics into the physiology or the body of the patient for alleviation of pain or for improvement of the life of the patient in the course of medical/surgical procedure could be construed as "works contract" liable for VAT under the provisions of the Tamil Nadu Value Added Tax Act, 2006.