

GST NEWSLETTER

BHASIN SETHI & ASSOCIATES

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NOTIFICATIONS AND CIRCULARS

Services under Reverse Charge.

Notification No. 22/2019-Central Tax (Rate); dated 30th September 2019.

Following services have been notified where GST will be paid under reverse charge:

1. Services provided by way of renting of a motor vehicle provided to a body corporate, where, supplier is any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business; and the recipient is any body corporate located in the taxable territory.

2. Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended, where, the supplier is 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; and the recipient is Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

Rate changes notified.

Notifications No. 14/2019-Central Tax (Rate), 15/2019- Central Tax (Rate), 16/2019- Central Tax (Rate), 17/2019- Central Tax (Rate), 18/2019- Central Tax (Rate), 19/2019- Central Tax (Rate), 20/2019- Central Tax (Rate), 21/2019- Central Tax (Rate), all dated 30th September 2019.

CBIC notified GST rate changes pursuant to decisions taken in the 37th meeting of GST Council held on September 20, 2019. Revised rates are applicable from October 01, 2019. Following are the principal new rates:

1. Plates and cups made of flowers, leaves and

bark - NIL

2. Caffeinated Beverages - 28%
3. Supplies of Railways wagons & coaches - 12%
4. Outdoor Catering (without ITC) - 5%
5. Diamond Job work - 1.5%
6. Other Job work - 12%
7. Hotels (Room Tariff of Rs.7501 or above) - 18%
8. Hotels (Room Tariff from Rs 1,001 to Rs 7,500) - 12%
9. Woven/ Non-woven Polyethylene Packaging bags - 12%
10. Slide fasteners - 12%
11. Wet grinders (consisting of stone as a grinder) - 5%
12. Dried Tamarind - NIL.

Transition from manual filing & processing of Refund to complete online module.

Notification No. 42/2019-Central Tax dated 30th September 2019

GST assesses are now going to have seamless refund mechanism, as GSTN, the technology platform of the indirect tax regime, has switched to a new system. The taxpayers will be able to file refund application online and the application will be processed there itself. All communications between the taxpayers and the tax officers will also be online.

The shift has been made effective from 24th September, 2019.

CASE LAWS AND OTHER UPDATES

Discount to home-buyers during slow-down not construable as passing ITC benefit.

In the matter of Paramount Propbuilt Pvt. Ltd., National Anti-Profiteering Authority (NAA) held a builder guilty of profiteering u/s 171(1) of CGST Act, 2017 to the tune of Rs. 3.69 crores (approx.) for not passing benefit of additional ITC to the tune of 2.42% (4.48% - 2.06%) considering ratio of ITC to turnover post-GST and pre-GST. It was found that a typical entry made on account of discount which Respondent has to offer to buyers due to slump in the market cannot be construed to have been made on account of passing on ITC benefit to home-buyers, moreover there is no

corresponding ledger entry in the accounts of buyers. Further, different discounts have been offered to different set of buyers which also leads to the conclusion that these discounts do not pertain to ITC benefit as this benefit was required to be distributed by taking into account the value of instalments due from individual house buyer post July 01, 2017. The respondent cannot be compelled to pay same discount to the Applicant as given to other house buyers as it does not fall within the ambit of Section 171(1) of CGST Act, further, authority has no jurisdiction to decide correct rate of tax applicable, whether supply is a 'composite supply'. It was directed that "Respondent shall reduce the prices to be realized from the buyers of the flats commensurate with the benefit of ITC received by him" while requiring Commissionerate to monitor execution of the order.

Request for GST payment in instalments rejected.

In the matter of Jagdish Kumar Sehgal vs. Union of India & Ors., Punjab & Haryana HC dismissed writ seeking quashing of the letter/recovery notice issued w.r.t deposit of GST for work executed and completed by Government contractor. Petitioner's submission regarding drawing out an installment schedule so that some reasonable time would be afforded for deposit of GST amount in absence of any provision to support the same was rejected. It was noted that GST liability in the notice is not disputed by the Petitioner.

Refund of IGST on zero-rated export despite grant of drawback allowed.

In the matter of G Nxt Power Corp. vs. UOI, Kerala HC held that the assessee, an exporter, is entitled for refund of IGST paid in cash despite the grant of drawback of the Central Excise component. Finding merit in assessee's reliance on Amit Cotton Industries, it was observed that assessee's entitlement is not disputed by Revenue. Revenue have consented on Court's suggestion for adjusting the higher rate of duty drawback availed by assessee. Further, on failure to abide by the time stipulated, the Revenue shall be obligated to pay interest @ 7% together with balance amount payable from the date on which a request for refund is made by the assessee till the date of payment, thereby disposing the petition.

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