

GST BULLETIN

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Notifications & Circulars

[GST under reverse charge exempted till 30 September](#)

Notification Nos. 12/2018-Central Tax (Rate), 13/2018-Integrated Tax (Rate), and 12/2018-Union Territory Tax (Rate); dated June 29, 2018

Govt. issued Notifications exempting payment of GST on reverse charge basis u/s 9(4), 5(4) and 7(4) of the CGST Act, IGST Act and UTGST Act respectively, till September 30, 2018. Accordingly, amends Notification Nos. 8/2017-Central Tax (Rate), 32/2017-Integrated Tax (Rate) and 8/2017-Union Territory Tax (Rate).

[Amendments to \(Fifth Amendment, 2018\) to the CGST Rules, 2017](#)

Notification no. 26/2018-Central Tax, dated: 13 June 2018

Vide notification no. 26/2018, the formula for refund on account of inverted duty structure would be: -

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services. Net ITC means ITC availed on inputs during the relevant period.

In addition, where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods / services or the benefit of ITC to the recipient by way of commensurate reduction in prices, the Authority may order reduction in prices; return to the recipient, an amount equivalent to the amount not passed on, along with interest at the rate of 18% from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be; the deposit of an amount equivalent to 50% of the

amount; imposition of penalty; and cancellation of registration.

Comments: This has removed the ambiguity regarding the ITC for refund.

Goods which may be disposed off by the proper officer after its seizure specified

Notification No. 27/2018-Central Tax, dated: 13 June 2018

Vide Notification No. 27/2018-Central Tax, the Central Government notified the goods which shall, as soon as may be after its seizure be disposed of by the proper officer. A few of such goods are newspapers and periodicals, menthol, camphor, saffron, re-fills for ball-point pens, lighter fuel, including lighters with gas, not having arrangement for refilling, cells, batteries and rechargeable batteries, petroleum products, fireworks, red sander etc.

Comments: These goods are specified having regard to the perishable or hazardous nature, depreciation in value with the passage of time, constraints of storage space or any other relevant considerations of the goods.

Amendment to the CGST Rules, 2017

Notification No. 28/2018-Central Tax, dated: 19 June 2018

Vide notification 28/2018 a new amendment to the CGST Rules was made, as per which a transporter who is registered in more than one State or Union Territory having the same PAN, he may apply for a unique common enrolment number by submitting the details in FORM GST ENR-02 using any one of his GSTIN, and upon validation of the details furnished, a unique common enrolment number will be generated and communicated to the said transporter.

Comments: If the transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the GSTIN.

Clarification on miscellaneous issues related to SEZ and refund of unutilized ITC for job workers.

Circular No. 48/2018, dated: 14 June 2018

CBIC has clarified that service of short term accommodation, conferencing, banqueting etc. provided to SEZ developer / unit shall be treated as 'inter-state supply'. Further, it was clarified that supplies to SEZ shall be zero rated and the supplier

shall be eligible for refund of unutilized ITC or IGST paid, only if such supplies have been received for authorized operations of SEZ. Therefore, subject to provisions of Section 17(5) of CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by SEZ developer / unit for authorized operations, as endorsed by specified officer of the Zone, benefit of zero rated supply will be available to the supplier. Further it was clarified that fabric processors (job-workers) will be eligible for refund of unutilized ITC on account of inverted duty structure u/s 54(3) of CGST Act even if goods (fabrics) supplied to them are covered under Notification No. 5/2017-Central Tax (Rate).

Comments: The CBIC has clarified certain miscellaneous issues related to Special Economic Zones (SEZ) and the refund of unutilized input tax credit for job workers under the GST regime.

Applicable GST rate on Priority Sector Lending Certificates (PSLCs), Renewable Energy Certificates (RECs)

Circular No. 46/2018, dated 6 June 2018

Finance Ministry (TRU) re-examined the issue of classification of Priority Sector Lending Certificates (PSLCs), Renewable Energy Certificates (RECs) and other similar scrips, and the GST rates applicable thereon. It was clarified that RECs and PSLCs and other similar documents are classifiable under Heading 4907 and attract 12% GST. However, Duty Credit Scrips under MEIS and SEIS would continue to attract Nil GST. It was explained that GST rate of 18% under residual entry at Sr. No. 453 of Schedule III of Notification No. 1/2017-Central Tax (Rate) applies only to those goods which are not covered under any other entries of Schedules I, II, IV, V, or VI.

Comments: Sr. No. 3 of Circular No. 34/18/2018-GST was modified which had clarified that PSLCs are taxable at 18% under residuary entry.

Clarification on refund related issue

Circular No. 45/18/2018-CGST dated May 30, 2018

CBIC clarified that no GST will be applicable on moulds & dies sent free of cost by OEM to unrelated component manufacturer as same does not constitute "supply" because there is no consideration. In such case, there is no requirement of reversing ITC by OEM since moulds & dies are provided on FOC basis in course or furtherance of component manufacturer's

business, and value of such moulds & dies will not be included in value of components supplied by component manufacturer. In case of servicing of cars where value of both supply of goods (spare parts) and services (labour) is shown separately, CBIC clarified that tax at the rates as applicable to such goods and services separately would be applicable but where value of goods and services involved in a supply are shown separately, goods and services would be liable to tax at rates as applicable thereto separately. As regards requirement of e-Way Bills in certain scenarios, CBIC stated that if goods transit through a second State while moving from one place in a State to another place in same State, an e-Way Bill is required to be generated. Where goods move from DTA unit to SEZ unit or vice versa located in same State, there is no requirement to generate an e-Way Bill if same has been exempted under Rule 138(14)(d) of CGST Rules.

Comments: The clarification has cleared numerous doubts.

Modification to Circular No. 41/15/2018-GST

CBIC modified Circular No. 41/15/2018-GST to prescribe '3 days' instead of '3 working days' for the proper officer to conclude the inspection proceedings, from date of issue of order for physical verification / inspection of conveyance, goods and documents. In view of unavailability of requisite Forms on common portal, CBIC clarified that hard copies of notices / orders issued in such specified Forms by a tax authority in one State may be shown by transporter / registered person as proof of initiation of action to tax authority in another State as and when required. Further it was clarified that only such goods and / or conveyances should be detained / confiscated in respect of which there is violation of provisions of GST law.

Case Laws and FAQs

CBIC releases 91 FAQs on GST for financial services sector

CBIC has released numerous FAQs on GST for financial services sector - Banking, Insurance and Stock Brokers sectors - inter alia, clarifying that services provided by banks to RBI are liable to GST; ATMs do not constitute 'place of business' for purposes of registration; bank/insurance co. may issue consolidated statement / invoice / advice to customer for the month with details of all charges and GST levied thereon, and they can rely

upon GSTIN provided by customers instead of ascertaining actual place of consumption of services; derivatives/future contracts being "securities" under Securities Contracts (Regulation) Act, 1956 are not liable to GST but service charges or brokerage etc. for same shall be, whereas any service / administrative / entry charges recovered in addition to interest on loan, advance or deposit would represent taxable consideration and hence, liable to GST; services supplied by a Bank to its branch/head office outside India, which are neither intermediary services nor services to account holders, shall be taxable in India and not be treated as 'exports' in view of Section 2(6)(v) of IGST Act, while tax paid on services received from a related person/distinct person located outside India would be liable to 50% credit reversal; insurance policies issued to NRIs where the premium is paid through NRE account will not constitute 'export' and would be subject to GST; the time of supply of life insurance services to the policy holders would be : (a) New Policy – time of issuance, (b) Renewal of Policy – time of issuance of renewal notice for insurance premium; (c) Other charges including ULIP charges – time of levy or recovery of charges from the policyholder; GST is payable by stock brokers as "intermediary" but GST shall not be payable on recoveries made towards stamp duty, STT, other Central or State taxes, as long as pure agent conditions provided in Rule 33 of CGST Rules are met.

Comments: These FAQs provided a much needed clarity.

Transportation services naturally bundled with supply of goods is taxable as composite supply.

Authority for Advance Ruling (AAR) in the matter of In the matter of IAC Electricals Pvt. Ltd. held that services of transportation, in-transit insurance and loading / unloading in relation to separate contract for supply of materials at ex-factory price, is liable to GST at rate applicable to supply of goods. It was also noted that supply of goods under First Contract cannot be executed independent of Second Contract providing for transportation as the First Contract does not include the provision and cost of transportation and delivery. In addition, the two contracts are linked by a cross fall breach clause that specifies that breach of one contract will be deemed to be a breach of other contract, and thereby turn them into a single source responsibility contract. It was consequently observed that the promises of supply of goods and their transportation to contractee's site are not separately

enforceable, the supplies of goods and services are naturally bundled, which are construed Composite Supply with supply of goods as the principal supply and services like transportation, in-transit insurance etc. ancillary or incidental to the principal supply.

Comments: The price components of both contracts including that for transportation, in-transit insurance etc. should be clubbed together to arrive at value of composite supply of works contract, as defined u/s 2(119) of CGST Act, and taxed at 18% in terms of Sl. No. 3(ii) of Notification No. 11/2017-Central Tax (Rate).

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