

GST NEWSLETTER

BHASIN SETHI & ASSOCIATES

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NOTIFICATIONS AND CIRCULARS

Amendment made in notification No. 48/2017 to amend the meaning of Advance Authorisation.

Notification No. 01/2019-Central Tax, dated 15th January 2019.

CBIC removed pre-import condition in respect of physical exports made under Advance Authorization (AA) scheme. Where exports have already been made after availing ITC, goods supplied against AA shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant shall be submitted to jurisdictional commissioner of GST or any other authorised officer within 6 months of such supply. However, no such certificate is required if ITC has not been availed on inputs used in manufacture of export goods. Accordingly, Notification No. 48/2017 - Central Tax was amended.

CBIC notified date for bringing into force the CGST (Amendment) Act, 2018.

Notification No. 02/2019-Central Tax, dated 29th January 2019.

CBIC notified 1st day of February, 2019 as the date on which the provisions of the Central Goods and Services Tax (Amendment) Act, 2018, except clause (b) of section 8, section 17, section 18, clause (a) of section 20, sub-clause (i) of clause (b) and sub-clause (i) of clause (c) of section 28, shall come into force.

Notifications and CGST Rules amended in view of bringing into effect the amendments.

Notification No. 03/2019-Central Tax; 04/2019-Central Tax; 05/2019-Central Tax; 06/2019-Central Tax, all dated 29th January 2019.

CBIC notified CGST (Amendment) Rules, 2019, replaced term 'Composition Rules' appearing in Chapter II with 'Composition Levy' while prescribing particulars required to be specified in credit/debit notes. Provisions regarding suspension of registration would be applicable in case a person applies for cancellation of registration under rule 20 or proper officer has reasons to believe that registration person is liable to be cancelled. Rule 11 was substituted, inter-alia, specifying that any person having multiple places of business within a State or a Union territory, requiring a separate registration u/s 25 (2) shall be granted separate registration subject to conditions. Further, such person who has obtained separate registration for multiple places of business can transfer the unutilised ITC lying in his electronic credit ledger to any or all of newly registered place of business in the ratio of the value of assets held by them at the time of registration.

Due date for furnishing of FORM GSTR – 7 extended.

Notification No. 07/2019-Central Tax, dated 31st January 2019.

Govt. extended time limit for filing FORM GSTR -7 by a registered person required to deduct tax at source u/s 51, for the months of October 2018 to December 2018 up to February 28, 2019. The period for submitting the declaration in FORM GST TRAN-1 was also extended up to March 31, 2019 for registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and whose cases have been recommended by the Council.

Clarification about GST applicability on various IIM programmes pre and post Jan 31, 2018.

Circular No. 82/2019-Central Tax, dated 1st January 2019

Vide the Circular, it was clarified that all Indian Institutes of Managements (IIMs) are "educational institutions" w.e.f. January 31, 2018 as defined under Notification No. 12/ 2017- Central Tax (Rate) as they provide education as part of curriculum for obtaining qualification recognised by law for time being in force. Services provided by IIMs to students in all such long duration programs (one year or more) for which they award diploma/degree certificate duly recommended by Board of Governors as per power vested in them under IIM Act, 2017 are exempt from levy of GST. However, for the period July 1, 2017 to January 30, 2018, GST exemption would be available only to 3 long duration programs of IIMs specified under Sl. No. 67 of notification No. 12/2017- Central Tax (Rate). Therefore, from January 31, 2018 to December 31, 2018, IIMs can avail exemption either under Sl. No 66 or Sl. No. 67 of the said notification for the eligible programmes. Moreover, all short duration executive development programs or need-based specially designed programs (less than one year) which are not a qualification recognized by law is not exempt and shall attract standard rate of GST @ 18% (CGST + SGST).

Services by Asian Development Bank (ADB) and International Finance Corporation (IFC) exempt from GST

Circular No. 83/2019-Central Tax, dated 1st January 2019

Vide the Circular, CBIC clarified that services provided by Asian Development Bank (ADB) and International Finance Corporation (IFC) are exempt from GST in terms of provisions of ADB Act and IFC Act, 1958. Exemption will not be available to any other entity appointed by or working on behalf of ADB or IFC. Moreover "There is no need for a separate exemption and existing laws enacted by the sovereign legislature of the Union suffice for the purpose of giving effect to Agreements".

[‘Printing of pictures’ falls under Heading 998386, taxable at 18%.](#)

Circular No. 84/2019-Central Tax, dated 1st January 2019

CBIC explained that service of “printing of pictures” falls under service code “998386: Photographic and videographic processing services”, taxable at 18% under item (ii), against serial number 21 of Table in Notification No. 11/2017-Central Tax (Rate). The said activity does not fall under “998912: Printing and reproduction services of recorded media, on a fee or contract basis”. According to explanatory notes, the service code 998912 clearly excludes, colour printing of images from film or digital media, cf. 998386 and audio and video production services, cf. 999613.

[Food/ Beverages supply by educational institution alone exempt, not by any other person.](#)

Circular No. 85/2019-Central Tax, dated 1st January 2019

CBIC clarified that supply of food and beverages by an educational institution to its students, faculty and staff, where such supply is made by the educational institution itself is exempt under vide Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate). However, such supply by any person other than the educational institutions based on a contractual arrangement is liable to GST @ 5%. Consequently, suitable amendments have been made to Notification No. 11/2017-Central Tax (Rate) and Notification No. 12/2017-Central Tax (Rate) to resolve ambiguity.

[GST applicability on services of Business Facilitator/Correspondent to Banking Company](#)

Circular No. 86/2019-Central Tax, dated 1st January 2019

CBIC clarified that the banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via business facilitator (BF) or business correspondent (BC). In the BF or BC model operated by a banking company as per RBI guidelines, the banking company is service provider, responsible to the customer for acts of omission and commission of the BF/BC. Further, for purpose of availing exemption from GST under Sl. No. 39 of

Notification No. 12/2017- Central Tax (Rate) in relation to “accounts in its rural area branch” services should be with respect to accounts in a branch located in rural area of banking company and in individual capacities of BF/BC falling under Heading 9971. Moreover, classification adopted by bank in terms of RBI guidelines in this regard should be accepted.

[Credit of service tax paid available as 'transitional credit'](#)

Circular No. 87/2019-Central Tax, dated 2nd January 2019

CBIC clarified that CENVAT credit of service tax paid u/s 66B of Finance Act, 1994 was available as transitional credit u/s 140(1) of CGST Act and that legal position has not changed due to amendment of section 140(1). Transition of credit of such tax was never intended to be disallowed u/s 140 (1) and therefore no such remark was present in the “Rationale/ Remarks” column (at Sl. No. 37) of the draft proposals for amending GST law uploaded in the public domain for comments. The word ‘duties’ is used interchangeably with the word ‘taxes’ and two words should not be read in a disharmonious manner. However, no transition of credit of cesses, including cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act would be allowed.

CASE LAWS AND FAQs

[ITC of other State’s CGST & SGST disallowed to Applicant registered in WB](#)

In the matter of Storm Communications Pvt. Ltd., West Bengal AAR held that applicant, a supplier of Event Management Services, registered in WB cannot claim ITC for CGST and SGST of other States, further, ITC of one State’s CGST cannot be adjusted for payment of another State’s CGST. Moreover, it was elucidated that applicant cannot adjust the ITC of Tamil Nadu GST for payment of IGST, whereas he is not registered in Tamil Nadu. The assessee has to move to other States where he is not registered to service clients and incur miscellaneous expenditure for booking hotels, banquet halls and on food on which it is charged CGST & SGST. It was noted “The architecture of the GST Act is such that even if a person is

registered in different states all such registrations will be treated as distinct persons, and input tax in the credit ledger of one such person is not transferable to the credit ledger of another". Consequently, "If the person is not registered in a particular state, the tax paid on the inward supplies in that state is not 'input tax' in relation to the said person" as "GST Act does not contain any concept of 'input tax' to an unregistered person".

Contract packing of tea bags a 'composite supply', taxable at 5%.

In the matter of Indian Institute of Science Education and Research, Odisha AAR held that services provided by way of packing of tea bags under a contract is a 'composite supply' where service of manufacturing tea bags from physical inputs owned by HUL is the principal supply. It was observed that HUL procures, transport and delivers all raw materials, packing materials, etc., ownership of which rests with HUL and applicant has no liberty to apply same for any other purpose other than processing and packing of HUL's products. Two services i.e. services for manufacturing tea bags and packaging of manufactured tea bag are under a single contract and at a single price. It was further explained that flow chart of the process undertaken at manufacturing unit indicates that the services are supplied as processes in a continuous assembly line where packaging of tea bags in cartons and wrapping is ancillary to manufacturing tea bags. It was held that such service is classifiable under SAC 9988 and taxable at 5% under Sr. No. 26(f) of Notification No. 11/2017-CT (Rate).

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