

CGST & IGST CIRCULARS

DIGEST-2018



Compilation of Circulars issued by Department of Revenue,
Ministry of Finance, Government of India
(Central Board of Indirect Taxes & Customs)

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Compiled by

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**F. No. 349/75/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs**

New Delhi, Dated the 26th June, 2017

To,

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

Madam/Sir,

**Subject: Proper officer for provisions relating to Registration and
Composition levy under the Central Goods and Services Tax Act, 2017 or the
rules made thereunder – Reg.**

In exercise of the powers conferred by Clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the Act) read with Section 20 of the Integrated Goods and Services Tax Act (13 of 2017) and subject to sub-section (2) of section 5 of the said Act, the Board, hereby assigns the officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to the various sections of the of the said Act or the rules made thereunder mentioned in the corresponding entry in Column (3) of the said Table:-

Table

Serial Number	Designation of the Officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made
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		thereunder
(1)	(2)	(3)
1.	Assistant or Deputy Commissioners of Central Tax and Assistant or Deputy Directors of Central Tax	i. Sub-Section (5) of Section 10 ii. Proviso to Sub-Section (1) of Section 27 iii. Section 30 iv. Rule 6 v. Rule 23 vi. Rule 25
2.	Superintendent of Central Tax	i. Sub-section (8) of Section 25 ii. Section 28 iii. Section 29 iv. Rule 9 v. Rule 10 vi. Rule 12 vii. Rule 16 viii. Rule 17 ix. Rule 19 x. Rule 22 xi. Rule 24

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

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

-sd-

(Upender Gupta)
Commissioner (GST)

**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 4th July, 2017

To,

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

Madam/Sir,

Subject: Issues related to furnishing of Bond/ Letter of Undertaking for Exports–Reg.

Various communications have been received from the field formations and exporters on the issue of difficulties being faced while supplying the goods or services for export without payment of integrated tax and filing the FORM GST RFD -11 on the common portal (www.gst.gov.in), because of which exports are being held up.

2. Whereas, as per rule 96A of the Central Goods and Services Tax Rules, 2017, any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking. This bond or Letter of Undertaking is required to be furnished in FORM GST RFD-11 on the common portal. Further, Circular No. 26/2017- Customs dated 1st July, 2017 has clarified that the procedure as prescribed under rule 96A of the said rules requires to be followed for the export of goods from 1st July, 2017.

3. Another issue being raised by various stakeholders is that the Bond/Letter of Undertaking is required to be given through the proper officer which is to be furnished to the jurisdictional Commissioner as per sub-rule (1) of rule 96A of the said rules. Taking cognizance of the fact that a large number of such Bonds/Letter of Undertakings would be required to be filed by the registered exporters who would be located at a distance from the office of the jurisdictional Commissioner, it is understood that the furnishing of such bonds/undertakings before the jurisdictional Commissioner may cause hardship to the exporters.

4. Thus, in exercise of the powers conferred by sub-section (3) of section 5 of the CGST Act, 2017, it is hereby stated that the acceptance of the Bond/Letter of Undertaking required to be furnished by the exporter under rule 96A of the said rules shall be done by the jurisdictional Deputy/Assistant Commissioner.

5. Further, in exercise of the powers conferred by section 168 of the said Act, for the purpose of uniformity in the implementation of the said Act, the Bond/Letter of Undertaking required to be furnished under rule 96A of the said rules may be furnished manually to the jurisdictional Deputy/Assistant Commissioner in the format specified in FORM RFD-11 till the module for furnishing of FORM RFD-11 is available on the common portal. The exporters may download the FORM GST RFD-11 from the website of the Central Board of Excise and Customs (www.cbec.gov.in) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner.

6. The above specified provisions shall be applicable to all applications which have been filed on or after 1st July, 2017. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

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

Sd/-
(Upender Gupta)
Commissioner (GST)

**F. No. 349/75/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 5th July, 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All)/ Director General of Systems

Madam/Sir,

Subject: Proper officer relating to provisions other than Registration and Composition under the Central Goods and Services Tax Act, 2017–Reg.

In exercise of the powers conferred by clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with Section 20 of the Integrated Goods and Services Tax Act (13 of 2017) and subject to sub-section (2) of section 5 of the Central Goods and Services Tax Act, 2017, the Board, hereby assigns the officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to the various sections of the Central Goods and Services Tax Act, 2017 or the rules made thereunder given in the corresponding entry in Column (3) of the said Table:-

Table

S. No.	Designation of the officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
1.	Principal Commissioner/ Commissioner of Central Tax	i. Sub- section (7) of Section 67 ii. Proviso to Section 78
2.	Additional or Joint Commissioner of Central Tax	i. Sub- sections (1), (2), (5) and (9) of Section 67 ii. Sub-section (1) and (2) of Section 71 iii. Proviso to section 81 iv. Proviso to sub-section (6) of Section 129 v. Sub-rules (1),(2),(3) and (4) of Rule

		139
		vi. Sub-rule (2) of Rule 140
3.	Deputy or Assistant Commissioner of Central Tax	i. Sub-sections (5), (6), (7) and (10) of Section 54 ii. Sub-sections (1), (2) and (3) of Section 60 iii. Section 63 iv. Sub-section (1) of Section 64 v. Sub-section (6) of Section 65 vi. Sub-sections (1), (2), (3), (5), (6), (7), (9), (10) of Section 74 vii. Sub-sections (2), (3), (6) and (8) of Section 76 viii. Sub-section (1) of Section 79 ix. Section 123 x. Section 127 xi. Sub-section (3) of Section 129 xii. Sub-sections (6) and (7) of Section 130 xiii. Sub-section (1) of Section 142 xiv. Sub-rule (2) of Rule 82 xv. Sub-rule (4) of Rule 86 xvi. Explanation to Rule 86 xvii. Sub-rule (11) of Rule 87 xviii. Explanation 2 to Rule 87 xix. Sub-rules (2) and (3) of Rule 90 xx. Sub-rules (2) and (3) of Rule 91 xxi. Sub-rules (1), (2), (3), (4) and (5) of Rule 92 xxii. Explanation to Rule 93 xxiii. Rule 94 xxiv. Sub-rule (6) of Rule 96 xxv. Sub-rule (2) of Rule 97 xxvi. Sub-rule (2), (3), (4), (5) and (7) of Rule 98 xxvii. Sub-rule (2) of Rule 100 xxviii. Sub-rules (2), (3), (4) and (5) of Rule 101 xxix. Rule 143 xxx. Sub-rules (1), (3), (4), (5), (6) and (7) of Rule 144 xxxi. Sub-rules (1) and (2) of Rule 145 xxxii. Rule 146 xxxiii. Sub-rules (1), (2), (3), (5), (6), (7), (8), (10), (11), (12), (14) and (15) of Rule 147 xxxiv. Sub-rules (1), (2) and (3) of Rule 151 xxxv. Rule 152 xxxvi. Rule 153 xxxvii. Rule 155

		xxxviii. Rule 156
4.	Superintendent of Central Tax	i. Sub- section (6) of Section 35 ii. Sub-sections (1) and (3) of Section 61 iii. Sub-section (1) of Section 62 iv. Sub-section (7) of Section 65 v. Sub-section (6) of Section 66 vi. Sub-section (11) of Section 67 vii. Sub-section (1) of Section 70 viii. Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 73 ix. Sub-rule (6) of Rule 56 x. Sub-rules (1), (2) and (3) of Rule 99 xi. Sub-rule (1) of Rule 132 xii. Sub-rule (1), (2), (3) and (7) of Rule 142 xiii. Rule 150
5.	Inspector of Central Tax	i. Sub-section (3) of Section 68 ii. Sub- rule (17) of Rule 56 iii. Sub- rule (5) of Rule 58

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

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

-sd-
(Upender Gupta)
Commissioner (GST)

**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
(GST Policy Wing)**

New Delhi, the 7th July, 2017

To,

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

Madam/Sir,

**Subject: Issues related to Bond/Letter of Undertaking for exports without payment
of integrated tax – Reg.**

Various communications have been received from the field formations and exporters that difficulties are being faced in complying with the procedure prescribed for making exports of goods and services without payment of integrated tax with respect to furnishing of bonds/Letter of Undertaking. Therefore, in exercise of powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, these issues are being clarified hereunder.

2. As per rule 96A of the Central Goods and Services Tax Rules, 2017 (The CGST Rules), any registered person exporting goods or services without payment of integrated tax is required to furnish a bond or a Letter of Undertaking (LUT) in FORM GST RFD-11.

3. Attention is invited to notification No. 16/2017-Central Tax dated 01-07-2017 vide which the category of exporters who are eligible to export under LUT has been specified along with the conditions and safeguards. All exporters, not covered by the said notification, would submit bond. The procedure for submission and acceptance of bond has already been prescribed vide circular No. 2/2/2017-GST dated 4th July, 2017. The bond shall be furnished on non-judicial stamp paper of the value as applicable in the State in which bond is being furnished.

4. A clarification has been sought as to whether bond to be furnished for exports is a running bond (with debit / credit facility) or a one-time bond (separate bond for each consignment / export). It is observed consignment wise bond would be a significant compliance burden on the exporters. It is directed that the exporters shall furnish a running bond, in case he is required to furnish a bond, in FORM GST RFD -11. The bond would cover the amount of tax involved in the export based on estimated tax liability as assessed by the exporter himself. The exporter shall ensure that the outstanding tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the tax liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability.

5. FORM RFD -11 under rule 96A of the CGST Rules requires furnishing a bank guarantee with bond. Field formations have requested for clarity on the amount of bank guarantee as a security for the bond. In this regard it is directed that the jurisdictional Commissioner may decide about the amount of bank guarantee depending upon the track record of the exporter. If Commissioner is satisfied with the track record of an exporter then furnishing of bond without bank guarantee would suffice. In any case the bank guarantee should normally not exceed 15% of the bond amount.

6. As regards LUT, it is clarified that it shall be valid for twelve months. If the exporter fails to comply with the conditions of the LUT he may be asked to furnish a bond. Exports may be allowed under existing LUTs/Bonds till 31st July 2017. Exporters shall submit the LUTs/bond in the revised format latest by 31st July, 2017.

7. It is further stated that the Bond/LUT shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the bond/LUT before Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayer to respective authority is implemented. However, if in a State, the Commissioner of State Tax so directs, by general instruction, to exporter, the Bond/LUT in all cases be accepted by Central tax officer till such time the said administrative mechanism is implemented. Central Tax officers are directed to take every step to facilitate the exporters.

8. Attention is further invited to circular No. 26/2017 – Customs dated 1st July 2017, vide which it has been clarified that the existing practice of sealing the container with a bottle seal

under Central Excise supervision or otherwise would continue till 01st September, 2017. Such sealing shall be done under the supervision of the officer having physical jurisdiction over the place of business where the sealing is being done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.

9. These instructions shall apply to exports on or after 1st July, 2017. It is requested that suitable trade notices may be issued to publicize the contents of this circular. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

-sd-
(Upender Gupta)
Commissioner (GST)

**F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 11th August, 2017

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 on issues related to furnishing of Bond/Letter of Undertaking for Exports–Reg.

Please refer to Notification No. 16/2017 – GST dated 7th July, 2017 and Circular No. 2/2/2017 – GST dated 5th July, 2017 and Circular No. 4/4/2017 – GST dated 7th July, 2017. A large number of communications have been received from the field formations and exporters citing variation in the interpretation of above referred notification and circulars.

2. Therefore, in exercise of powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, following issues are being clarified hereunder:

a. Eligibility to export under LUT: Notification No. 16/2017 – Central Tax dated 7th July, 2017 specifies conditions to be fulfilled for export under Letter of Undertaking (LUT) in place of bond. In the extant Central Excise provisions, LUTs were limited to manufacturer exporters only. The intent of the said notification is to liberalize the facility of LUT and extend it to all kind of suppliers. It is hereby clarified that any registered person who has received a minimum foreign inward remittance of 10% of export turnover in the preceding financial year is eligible for availing the facility of LUT provided that the amount received as foreign inward remittance is not less than

Rs. one crore. This means that only such exporters are eligible to LUT facilities who have received a remittance of Rs. one crore or 10% of export turnover, whichever is a higher amount, in the previous financial year. A few illustrations are as follows:

- i. An exporter had a turnover of Rs. 15 crore in the previous financial year. He would be eligible for LUT facility if remittance received against this export is Rs. 1.5 crore or more (10% of export turnover is more than Rs. 1 crore)
- ii. An exporter had a turnover of Rs. 5 crore in the previous financial year. He would be eligible for LUT facility if remittance received against this export is Rs. 1.0 crore or more (10% of export turnover is less than Rs. 1 crore)
- iii. An exporter has an export turnover of Rs. 2 crore. He has received Rs. 80 lacs as foreign inward remittances in FY 2016-17 which is 40% of the export turnover. He will not be eligible for LUT facility as remittance received is less than Rs. 1 crore.
- iv. An exporter has export turnover of Rs. 40crore. He has received Rs. 2 Crores as foreign inward remittances in FY 2016-17 which is 5% of the export turnover. He will not be eligible for LUT facility as remittance received is less than 10% of export turnover, even though it is in excess of Rs. 1 crore.
- v. An exporter has received Rs. 1 Crore 10 lacs as foreign inward remittances in FY 2016-17 which is 20% of the export turnover. In this scenario, he will be eligible for LUT facility.

It may however be noted that a status holder as specified in paragraphs 3.20 and 3.21 of the Foreign Trade Policy 2015-2020 is eligible for LUT facility regardless of whether he satisfies the above conditions.

b. Form for LUT: Bonds are furnished on non-judicial stamp paper, while LUTs are generally submitted on the letterhead containing signature and seal of the person or the person authorized in this behalf as provided in said Notification.

c. Time for acceptance of LUT/Bond: As LUT/bond is *a priori* requirement for export, including supplies to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority and should be accepted within a period of three working days from the date of submission of LUT/bond along with complete documents by the exporter.

d. Purchases from manufacturer and form CT-1: It is learnt that there is lack of clarity about treatment of CT-1 form which was earlier used for purchase of goods by a merchant exporter from a manufacturer without payment of central excise duty. The scheme holds no relevance under GST since transaction between a manufacturer and a merchant exporter is in the nature of supply and the same has not been exempted under GST even on submission of LUT/bond. Therefore, such supplies would be subject to GST. The zero rating of exports, including supplies to SEZ, is allowed only with respect to supply by the actual exporter under LUT/bond or payment of IGST.

e. Transactions with EOUs: Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them. Therefore, supplies to EOUs are taxable under GST just like any other taxable supplies. The EOUs, to the extent of exports, are eligible for zero rating like any other exporter.

f. Forward inward remittance in Indian Rupee: Various representations have been received with respect to receipts of proceeds of supplies in Indian Rupee especially with respect to exports to Nepal, Bhutan and SEZ developer/SEZ unit. Attention is invited to Para A (v) Part-I of RBI Master Circular no. 14/2015-16 dated July 1, 2015 (updated as on November 5, 2015), which states “*there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan*”.

Accordingly, it is clarified that acceptance of LUT instead of a bond for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with applicable RBI guidelines. It may also be noted that supply of services to SEZ developer or SEZ unit will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

g. Bank guarantee: Circular No. 4/4/2017 dated 7th July, 2017 provides that bank guarantee should normally not exceed 15% of the bond amount. However, the Commissioner may waive off the requirement to furnish bank guarantee taking into account the facts and circumstances of each case. It is expected that this provision would be implemented liberally. Some of the instances of liberal interpretation are as follows:

i. an exporter registered with recognized Export Promotion Council can be allowed to submit bond without bank guarantee on submission of a self-attested copy of the proof of registration with a recognized Export Promotion Council

ii. In the GST regime, registration is State-wise which means that the expression ‘registered person’ used in the said notification may mean different registered persons (distinct persons in terms of sub-section (1) of section 25 of the Act) if a person having one Permanent Account Number is registered in more than one State. It may so happen that a registered person may not satisfy the condition regarding foreign inward remittances in respect of one particular registration, because of splitting and accountal of receipts and turnover across different registered person with the same PAN. But the total amount of inward foreign remittances received by all the registered persons, having one Permanent Account Number, maybe Rs. 1 crore or more and it also maybe 10% or more of total export turnover. In such cases, the registered person can be allowed to submit bond without bank guarantee.

h. Jurisdictional officer: It has been clarified in Circular Nos. 2/2/2017 – GST dated 4th July, 2017 and 4/4/2017 – GST dated 7th July, 2017 that Bond/LUT shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the bond/LUT before Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. It is reiterated that the Central Tax officers shall facilitate all exporters whether or not the exporter was registered with the Central Government in the earlier regime.

i. Documents for LUT: Documents submitted as proof of fulfilling the conditions of LUT shall be accepted unless there is any evidence to the contrary. Self-declaration shall be accepted unless there is specific information otherwise. For example, a self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of notification No.

16/2017 - Central tax dated 7th July, 2017. Verification, if any, may be done on post facto basis. Similarly, Status holder exporters have been given the facility of LUT under the said notification and a self-attested copy of the proof of Status should be sufficient.

j. Applicability of circulars on Bond/LUTs: It is learnt that some field officers have inferred that the instructions given by the said circulars are effective in respect of exports made only from the date of its issue despite the fact that it has been categorically clarified specifically in the said circular (dated 7th July, 2017) that the instructions shall be applicable for exports on or after 1st July, 2017. It is reiterated that the instructions issued vide said circular and this circular are applicable to any export made on or after the 1st July 2017.

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

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

(Upender Gupta)
Commissioner (GST)

F. No. 354/149/2017-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax Research Unit

New Delhi, the 27th August, 2017

To,

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

Madam/Sir,

Subject: - Issue related to classification and GST rate on lottery tickets – regarding

Supply of lottery has been treated as supply of goods under the Central Goods and Services Tax (CGST) Act, 2017.

2. Accordingly, based on the recommendation of the GST Council, the GST rate for supply of lottery has been notified under relevant GST rate notification relating to CGST/IGST/UTGST/SGST. However, entries in the respective notifications mention classification for lottery as “-”.

3. In this connection, references have been received, *inter-alia*, stating that due to discrepancy in code allotted, i.e., lottery is defined as goods but code allotted for lottery is under services, the assessee are not able to upload return or deposit tax in time.

4. The matter has been examined. It should be noted that the process of filing return is linked with rate of tax specified for supply. Further, there is complete clarity about rate of tax on lotteries. As mentioned above, in GST, lottery is goods and the classification indicated in relevant notification for lottery is “-”, which means any chapter.

5. That being so, it is clarified that the classification for lottery in respective CGST, IGST, UTGST and SGST notifications shall be ‘Any Chapter’ of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and tax on lottery should be paid accordingly at prescribed rates, 12% or 28%, as the case may be.

(Ruchi Bisht)
Under Secretary (TRU)

फा0 सं0 354/149/2017-टीआरयू

वित्त मंत्रालय
राजस्व विभाग
भारत सरकार

नई दिल्ली, 27 अगस्त, 2017

सेवा में,

प्रधान मुख्य आयुक्त/ मुख्य आयुक्त / प्रधान आयुक्त / आयुक्त, केंद्रीय कर
(समस्त) / प्रणाली महा निदेशक

महोदया / महोदय,

विषय: लाटरी टिकट का वर्गीकरण और उनपर जीएसटी की दर से संबंधित विषय की बाबत ।

लाटरी की आपूर्ति को केन्द्रीय माल एवं सेवाकर (सीजीएसटी) अधिनियम, 2017 के अंतर्गत किसी माल की आपूर्ति माना जाता है ।

2. तदनुसार जीएसटी परिषद की सिफारिशों के आधार पर लाटरी की आपूर्ति से संबंधित जीएसटी की दर को सीजीएसटी /एसजीसीटी/यूटीजीएसटी/आईजीएसटी से संबंधित जीएसटी दर की अधिसूचनाओं में अधिसूचित कर दिया गया है। हालांकि संबंधित अधिसूचनाओं में दी गई प्रविष्टियों में लाटरी का वर्गीकरण ' - ' के रूप में किया गया है ।

3. इस संबंध में कई संदर्भ प्राप्त हुए हैं जिनमें अन्य बातों के अलावा यह कहा गया है कि आर्बिट्रि कोड में विसंगति होने के कारण , क्योंकि लाटरी को एक वस्तु के रूप में परिभाषित किया गया है, लेकिन इसे जो कोड मिला वो सेवा के अंतर्गत है, अतः इसके कार्यकर्ता समय से रिटर्न समय से न तो अपलोड कर पाते हैं और न ही जमा कर पाते हैं ।

4. इस मामले पर विचार किया गया है । यह ध्यान दिया जाना चाहिए कि रिटर्न फाइलिंग की प्रक्रिया वस्तुओं और सेवाओं की आपूर्ति के कर की दर से सम्बंधित है । और यह भी स्पष्ट है कि लाटरी टिकट के कर की दर स्पष्ट है । जैसा कि ऊपर लिखा गया है जीएसटी लाटरी एक वस्तु है और इसका वर्गीकरण लाटरी की अधिसूचनाओं में ' - ' के रूप में किया गया है जो कि कोई भी अध्याय माना जा सकता है ।

5. इस तरह से यह स्पष्ट किया जा सकता है कि सीजीसीटी, आईजीएसटी, यूटीजीएसटी, से संबंधित अधिसूचनाओं में लाटरी का वर्गीकरण कस्टम टैरिफ अधिनियम, 1975 की प्रथम

अनुसूची के किसी भी अध्याय के रूप में किया गया है और तदनुसार लाटरी पर कर का भुगतान कर के भुगतान के लिए 12 प्रतिशत या 28 प्रतिशत , जैसी भी स्थिति की दर निर्दिष्ट की गई गई है ।

(रूचि बिष्ट)

अवर सचिव भारत सरकार (टीआयू)

**F. No. 349/164/2017/-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 01st September, 2017

To,

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

Subject: System based reconciliation of information furnished in FORM GSTR-1 and FORM GSTR-2 with FORM GSTR-3B - regarding

Sections 37, 38 and section 39 of the CGST Act, 2017(hereinafter referred to as 'the Act') read with rules 59, 60 and 61 of the CGST Rules, 2017(hereinafter referred to as 'the Rules') require every registered person to furnish details of outward supplies made in a month in FORM GSTR-1, details of inward supplies received in a month in FORM GSTR-2 and a return in FORM GSTR-3 by the 10th, 15th and 20th of the next month respectively. Keeping in view that taxpayers may face certain issues in the initial days after the introduction of GST, the GST Council extended the date for filing of FORM GSTR-1 and FORM GSTR-2 for the months of July and August, 2017 and approved the filing of a simplified return in FORM GSTR-3B for these two months by the notified due dates after making the due payment of tax.

2. Registered persons opting to utilize transitional credit available under section 140 of the Act read with the rules made there under for discharging the tax liability for the month of July, 2017 were required to file FORM GST TRAN -1 on or before 28th August, 2017. This transitional credit was to be credited to the electronic credit ledger and be available for discharging the tax liability.

3. As per the provisions of sub-rule (5) of rule 61 of the Rules, the return in FORM GSTR-3B was required to be furnished when the due dates for filing of FORM GSTR-1 and FORM GSTR-2 have been extended. After the return in FORM GSTR-3B has been furnished, the process of reconciliation between the information furnished in FORM GSTR-3B with that furnished in FORM GSTR-1 and FORM GSTR-2 would be carried out in accordance with the provisions of sub-rule (6) of rule 61 of the Rules.

4. The detailed procedure for reconciliation of information furnished in FORM GSTR-3 and FORM GSTR-3B is detailed in succeeding paras.

Furnishing of information in FORM GSTR-1 & FORM GSTR-2:

5. It may be noted that after the registered person has filed his return in FORM GSTR-3B and the statement of outward supplies in FORM GSTR-1, the inward supplies shall be

auto drafted for all registered persons (corresponding recipients of supply) and made available to them in FORM GSTR-2A as per sub-rule (3) of rule 59 of the Rules. FORM GSTR-2A is the exact replica of FORM GSTR-2 containing only those details that are auto-populated from the details furnished in FORM GSTR-1 by the corresponding suppliers. Based on the details communicated in FORM GSTR-2A, the registered person shall prepare the statement of inward supplies in FORM GSTR-2 by:-

- a. adding, deleting or modifying the invoice level details communicated in FORM GSTR-2A;
- b. adding information pertaining to details that are required to be furnished in GSTR-2 but are not part of FORM GSTR-2A like details of imports, details of supplies attracting reverse charge that have been received by registered person;
- c. providing details of supplies received from composition suppliers and exempt, nil-rated & non GST inward supplies;
- d. providing details of advances paid on inward supplies attracting reverse charge, if any, along with adjustments;
- e. providing details of reversal of ITC as per the provisions of rules 37, 39, 42 and 43 of the Rules, if any; and
- f. providing HSN wise summary details of inward supplies.

Correction of erroneous details furnished in FORM GSTR-3B:

6. In case the registered person intends to amend any details furnished in FORM GSTR-3B, it maybe done in the FORM GSTR-1 or FORM GSTR-2, as the case may be. For example, while preparing and furnishing the details in FORM GSTR-1, if the outward supplies have been under reported or excess reported in FORM GSTR-3B, the same maybe correctly reported in the FORM GSTR-1. Similarly, if the details of inward supplies or the eligible ITC have been reported less or more than what they should have been, the same maybe reported correctly in the FORM GSTR-2. This will get reflected in the revised output tax liability or eligible ITC, as the case may be, of the registered person. The details furnished in FORM GSTR-1 and FORM GSTR-2 will be auto-populated and reflected in the return in FORM GSTR-3 for that particular month.

Action on the system-based reconciliation:

7. After the registered person has furnished the statement of inward supplies in FORM GSTR-2 by the extended date, the common portal shall auto-draft Part-A of the return in FORM GSTR-3 for the said month based on the information furnished in FORM GSTR-1 and FORM GSTR-2. Based on the revised figures of output tax liability and eligible input tax credit, Table 12 of Part B of FORM GSTR-3 shall be made available. The common portal would populate the correct figures of tax payable in column (2) of Table 12 of FORM GSTR-3, based on the information furnished in FORM GSTR-1 and FORM GSTR-2. The tax paid through the electronic cash ledger and electronic credit ledger in the return in FORM GSTR-3B shall be displayed by the system in column (3) to (7) of the Table 12 of Part B of FORM GSTR-3. Where there is no difference between the details of output tax liability and eligible input tax credit furnished in FORM GSTR-3B and the details furnished in FORM GSTR-1

and FORM GSTR-2, the amount of tax payable and tax paid shall be the same in FORM GSTR-3B and FORM GSTR-3. The person can sign and submit FORM GSTR-3 without any additional payment of tax.

Additional payment of taxes:

8. Where the tax payable by a registered person as per FORM GSTR-3 is more than what has been paid as per FORM GSTR-3B, the common portal would show another instance of Table 12 for making additional payment of taxes, in accordance with the mandate of clause (b) of sub-rule (6) of rule 61. As the tax payable in column (2) of Table 12 of FORM GSTR-3 is more than what was shown in FORM GSTR-3B, the additional amount of tax payable can be paid by debiting the electronic cash or credit ledger as per the provisions contained in section 49 of the Act along with applicable interest on delayed payment of tax starting from 26th day of August, 2017 till the date of debit in the electronic cash or credit ledger. If the eligible ITC claimed by the person in FORM GSTR-2 is less than the ITC claimed and utilised by the registered person in FORM GSTR-3B, the same would be added to his output tax liability and shall have to be paid by him along with interest by debiting the electronic cash or credit ledger as per the provisions contained in section 49 of the Act before submitting the return in FORM GSTR-3 to complete the process. It may be noted that where the transitional credit as declared in FORM GST TRAN-1 is credited to the electronic credit ledger, the same can be utilised for the payment of the said additional tax liability.

Additional claim of eligible ITC:

9. Where the eligible ITC claimed by the taxpayer in FORM GSTR-3B is less than the ITC eligible as per the details furnished in FORM GSTR-2, the additional amount of ITC shall be credited to the electronic credit ledger of the registered person when he submits the return in FORM GSTR-3 (in accordance with clause (c) of sub-rule (6) of rule 61). However, simultaneously, if there is an increase in the output tax liability, the registered person can utilise this additional amount of ITC eligible as per the details furnished in FORM GSTR-2 along with the balance in the electronic cash ledger, if required, for the payment of the increased output tax liability and submit his return in FORM GSTR-3.

Reduction in output tax liability:

10. Where the output tax liability of the registered person as per the details furnished in FORM GSTR-1 and FORM GSTR-2 is less than the output tax liability as per the details furnished in the FORM GSTR-3B and the same is not offset by a corresponding reduction in the input tax credit to which he is entitled, the excess shall be carried forward to the next month's return to be offset against the output liability of the next month by the taxpayer when he signs and submits the return in FORM GSTR-3. However, simultaneously, if there is a decrease in the eligible input tax credit, the same will be adjusted against the above mentioned reduction in output tax liability and the balance, if any, of the reduction in output tax liability shall be carried forward to the next month's return to be offset against the output liability of the next month.

Submission of GSTR-3B without payment of taxes:

11. Where, for some reasons, the registered person has only submitted the return in FORM GSTR-3B and has not made the payment of taxes by debiting the same from his electronic cash or credit ledger, the return shall still be subjected to the reconciliation process as detailed above. Such registered person should furnish the details in FORM GSTR-1,

FORM GSTR-2 and sign and submit the return in FORM GSTR-3 along with the payment of the due taxes as per the provisions of section 49 of the Act. However, since the payment was not made on or before the due date, the registered person shall be liable for payment of interest on delayed payment of tax starting from 26th day of August, 2017 till the date of debit in the electronic cash and / or credit ledger but will not be liable to pay any late fee provided the requisite return in FORM GSTR-3B was submitted on or before the due date.

12. Where the registered person has not submitted the return in FORM GSTR-3B, he is required to furnish the details in FORM GSTR-1 and FORM GSTR-2 and sign and submit the return in FORM GSTR-3 along with the payment of the due taxes as per the provisions of section 49 of the Act. However, since the payment was not made on or before the due date, the registered person shall be liable for payment of interest on delayed payment of tax starting from 26th day of August, 2017 till the date of debit in the electronic cash and / or credit ledger. No late fee, however, would be levied for late filing of return in terms of section 47 of the Act, in accordance with the recommendation of the GST Council, as notified vide Notification No. 28/2017-Central tax dated 01.09.2017.

Processing of information furnished:

13. After submission of the information in FORM GSTR-1 and FORM GSTR-2, the process of matching as per section 41, 42 and 43 of the Act read with rules 69 to 76 of the Rules shall be carried out as if these details were submitted in the regular course. Any amendment in the details furnished in FORM GSTR-1 and GSTR-2 shall be done following the procedure laid down under sub-section (3) of section 37 and sub-section (5) of section 38 of the Act respectively. The return shall be considered to be a valid return when the tax payable as per FORM GSTR-3 has been paid in full after which the return shall be taken up for matching.

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

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

(Upender Gupta)
Commissioner (GST)

**F. No. 349/74/2017-GST (Pt.) Vol.-II
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 4th October, 2017

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 on issues related to furnishing of Bond/Letter of Undertaking for exports

In view of the difficulties being faced by the exporters in submission of bonds/Letter of Undertaking (LUT for short) for exporting goods or services or both without payment of integrated tax, Notification No. 37/2017 – Central Tax dated 4th October, 2017 has been issued which extends the facility of LUT to all exporters under rule 96A of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as “the CGST Rules”) subject to certain conditions and safeguards. This notification has been issued in supersession of Notification No. 16/2017 – Central Tax dated 7th July, 2017 except as respects things done or omitted to be done before such supersession.

2. In the light of the new notification, three circulars in this matter, namely Circular No. 2/2/2017 – GST dated 5th July, 2017, Circular No. 4/4/2017 – GST dated 7th July, 2017 and Circular No. 5/5/2017 – GST dated 11th August, 2017, which were issued for providing clarity on the procedure to be followed for export under bond/LUT, now require revision and a consolidated circular on this matter is warranted. Accordingly, to ensure uniformity in the

procedure in this regard, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 clarifies the following issues:

- a) **Eligibility to export under LUT:** The facility of export under LUT has been now extended to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence under the CGST Act or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws and the amount of tax evaded in such cases exceeds two hundred and fifty lakh rupees unlike Notification No. 16/2017-Central Tax dated 7th July, 2017 which extended the facility of export under LUT to status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020 and to persons receiving a minimum foreign inward remittance of 10% of the export turnover in the preceding financial year which was not less than Rs. one crore.
- b) **Validity of LUT:** The LUT shall be valid for the whole financial year in which it is tendered. However, in case the goods are not exported within the time specified in sub-rule (1) of rule 96A of the CGST Rules and the registered person fails to pay the amount mentioned in the said sub-rule, the facility of export under LUT will be deemed to have been withdrawn. If the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be restored. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee.
- c) **Form for bond/LUT:** Till the time **FORM GST RFD-11** is available on the common portal, the registered person (exporters) may download the **FORM GST RFD-11** from the website of the Central Board of Excise and Customs (www.cbec.gov.in) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner having jurisdiction over their principal place of business. The LUT shall be furnished on the letter head of the registered person, in duplicate, and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor. The bond, wherever required, shall be furnished on non-judicial stamp paper of the value as applicable in the State in which the bond is being furnished.

- d) **Documents for LUT:** Self-declaration to the effect that the conditions of LUT have been fulfilled shall be accepted unless there is specific information otherwise. That is, self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of Notification No. 37/2017- Central Tax dated 4th October, 2017. Verification, if any, may be done on post-facto basis.
- e) **Time for acceptance of LUT/Bond:** As LUT/Bond is a *a priori* requirement for export, including exports to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority. It is clarified that LUT/bond should be accepted within a period of three working days of its receipt along with the self-declaration as stated in para 2(d) above by the exporter. If the LUT / bond is not accepted within a period of three working days from the date of submission, it shall deemed to be accepted.
- f) **Bank guarantee:** Since the facility of export under LUT has been extended to all registered persons, bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount.
- g) **Clarification regarding running bond:** The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the said liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability. The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter. The record of such entries shall be furnished to the Central tax officer as and when required.
- h) **Sealing by officers:** Till mandatory self-sealing is operationalized, sealing of containers, wherever required to be carried out under the supervision of the officer, shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.

- i) **Purchases from manufacturer and Form CT-1:** It is clarified that there is no provision for issuance of CT-1 form which enables merchant exporters to purchase goods from a manufacturer without payment of tax under the GST regime. The transaction between a manufacturer and a merchant exporter is in the nature of supply and the same would be subject to GST.
- j) **Transactions with EOUs:** Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them under GST regime. Therefore, supplies to EOUs are taxable like any other taxable supplies. EOUs, to the extent of exports, are eligible for zero rating like any other exporter.
- k) **Realization of export proceeds in Indian Rupee:** Attention is invited to para A (v) Part-I of RBI Master Circular No. 14/2015-16 dated 01st July, 2015 (updated as on 05th November, 2015), which states that *“there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan”*.

Accordingly, it is clarified that the acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

- l) **Jurisdictional officer:** In exercise of the powers conferred by sub-section (3) of section 5 of the CGST Act, it is hereby stated that the LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place

of business of the exporter. The exporter is at liberty to furnish the LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

3. Circular No. 2/2/2017 – GST dated 5th July, 2017, Circular No. 4/4/2017 – GST dated 7th July, 2017 and Circular No. 5/5/2017 – GST dated 11th August, 2017 are hereby rescinded except as respects things already done or omitted to be done.

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

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

(Upender Gupta)
Commissioner (GST)

**F. No. 349/75/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
(GST Policy Wing)**

New Delhi, Dated the 18th October, 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central tax (All)/ Commissioners of Central tax (Audit)/ Principal Director
General of Goods and Services Tax Investigation/ Director General of Systems

Madam/Sir,

**Subject: Officer authorized for enrolling or rejecting application for Goods and
Services Tax Practitioner-Reg.**

In pursuance of clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and subject to sub-section (2) of section 5 of the Central Goods and Services Tax Act, 2017, the Board, hereby specifies the Assistant Commissioner/Deputy Commissioner, having jurisdiction over the place declared as address in the application for enrolment as Goods and Service Tax Practitioner in **FORM GST PCT-1** submitted in terms of sub-section (1) of section 48 of the Central Goods and Services Tax Act, 2017 read with sub-rule (2) of rule 83 of the Central Goods and Service Tax Rules, 2017 as the officer authorized to approve or reject the said application.

2. It is also clarified that the applicant shall be at liberty to choose either the Centre or the State as the enrolling authority. The choice will have to be specified by the applicant in Item 1 of Part B of FORM GST PCT-1.

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

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

(Upender Gupta)
Commissioner (GST)

Circular No. 10/10/2017-GST

**CBEC - 20/16/03/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, dated 18th October, 2017

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 on issues wherein the goods are moved within the State or from the State of registration to another State for supply on approval basis –Reg.

Various communications have been received particularly from the suppliers of jewellery etc. who are registered in one State but may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person. It has also been represented that such goods are also carried within the same State for the purposes of supply. Therefore, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter as follows -

2. It is seen that clause (c) of sub-rule (1) of rule 55 of the Central Goods and Services Tax Rules, 2017 (hereafter referred as “the said Rules”) provides that the supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply. Further, sub-rule (3) of the said rule also provides that the said delivery challan shall be declared as specified in rule 138 of the said Rules. It is also seen that sub-rule (4) of rule 55 of the said Rules provides that “*Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods*”.

3. A combined reading of the above provisions indicates that the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery

challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.

4. It is further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and attract integrated tax in terms of Section 5 of the Integrated Goods and Services Tax Act, 2017.

5. It is also clarified that this clarification would be applicable to all goods supplied under similar situations.

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

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

(Upender Gupta)
Commissioner (GST)

F. No. 354/263/2017-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

North Block, New Delhi
20th October 2017

To,

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

Madam/Sir,

Subject: Clarification on taxability of printing contracts

Requests have been received to clarify whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods falling under Chapter 48 or 49 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) or supply of services falling under heading 9989 of the scheme of classification of services annexed to notification No. 11/2017-CT(R).

2. In the above context, it is clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

3. Principal supply has been defined in Section 2(90) of the Central Goods and Services Tax Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

4. In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.

5. In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.

4. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours Faithfully,

Rachna

Technical Officer (TRU)
Email: rachna.irs@gov.in

फाइल संख्या 354/263/2017-टीआरयू

भारत सरकार

वित्त मंत्रालय

राजस्व विभाग

कर अनुसंधान एकक

नार्थ ब्लॉक, नई दिल्ली,
दिनांक , 2017

सेवा में,

प्रधान मुख्य आयुक्त/मुख्य आयुक्त/प्रधान आयुक्त/आयुक्त, केन्द्रीय कर (सभी)/प्रधान महानिदेशक/महानिदेशक (सभी)

महोदया/महोदय,

विषय: मुद्रण अनुबंधों पर कर लगाने से संबंधित स्पष्टीकरण ।

इस बात को स्पष्ट करने के लिए अनुरोध प्राप्त हुए हैं कि क्या किताबों, पम्फलेटों, ब्रोशरों, लिफाफों, वार्षिक रिपोर्टों, पर्चियों, कार्टन, डिब्बों आदि जिन पर डिजाइन, लोगों, नाम, पता या अन्य बातें मुद्रित हों कि आपूर्ति जो कि ऐसी आपूर्ति के प्राप्तकर्ता द्वारा की गई हो, की आपूर्ति को सीमा शुल्क टैरिफ अधिनियम, 1975 (1975 का इक्यावन) की प्रथम अनुसूची के अध्याय 48 या 49 के अंतर्गत वस्तुओं की आपूर्ति माना जाएगा या अधिसूचना संख्या 11/2017-सीटी (आर) में संलग्न सेवाओं के वर्गीकरण की योजना के शीर्ष 9989 के अंतर्गत सेवाओं की आपूर्ति माना जाएगा ।

2. उपर्युक्त के संदर्भ में यह स्पष्ट किया जाता है कि किताबों, पम्फलेटों, ब्रोशरों, लिफाफों, वार्षिक रिपोर्टों, पर्चियों, कार्टन, डिब्बों आदि जिन पर डिजाइन, लोगों, नाम, पता या अन्य बातें मुद्रित हों की ऐसी मुद्रित वस्तुओं के प्राप्तकर्ता के द्वारा की गई आपूर्ति को संयुक्त आपूर्ति माना जाता है और यह प्रश्न की क्या यह आपूर्ति वस्तु की आपूर्ति है या सेवाओं की आपूर्ति है इसका उत्तर इस बात पर निर्भर करता है कि मुख्य आपूर्ति कौन सी है ।

3. मुख्य आपूर्ति को केन्द्रीय माल एवं सेवाकर अधिनियम की धारा 2 (90) के अंतर्गत इस प्रकार परिभाषित किया गया है कि वस्तुओं या सेवाओं की आपूर्ति जो कि संयुक्त आपूर्ति का अधिभावी अव्यव है और वह आपूर्ति जो कि इस संशित आपूर्ति का एक हिस्सा मात्र है सहायक आपूर्ति मानी जाएगी ।

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4. किताबों, पम्फलेटों, ब्रोशरों, वार्षिक रिपोर्टों और इसी प्रकार की अन्य वस्तुओं का मुद्रण जिसमें की कोई प्रकाशक या कोई व्यक्ति केवल विषय वस्तु की आपूर्ति करता है जो कि अमूर्त वस्तुओं पर केवल प्रयोग का अधिकार रखता है जबकि भौतिक वस्तुओं में जिसमें कि मुद्रण का पेपर भी आता है मुद्रक की होती हैं के मामले में यह माना जाएगा कि मुद्रण की आपूर्ति (आपूर्ति के प्राप्तकर्ता द्वारा आपूर्ति की गई विषयवस्तु) ही मुख्य आपूर्ति है और ऐसी आपूर्ति सेवाओं के वर्गीकरण की योजना के शीर्ष 9989 के अंतर्गत आने वाली सेवाओं की आपूर्ति मानी जाएगी ।

5. मुद्रित लिफाफों, लेटर कार्डस, प्रिंटेड डिब्बें, टीशूज, नैपकिन , वॉल पेपर आदि जो कि अध्याय 48 या 49 के अंतर्गत आते हैं, जिन पर डिजाइन, लोगो आदि मुद्रित होते हैं और माल के प्राप्तकर्ता द्वारा आपूर्ति की जाती है लेकिन इनको भौतिक वस्तुओं द्वारा बनाया जाता है जिनमें वे मुद्रण पेपर भी आते हैं जो कि मुद्रक के होते हैं की आपूर्ति के मामले में वस्तुओं की आपूर्ति को मुख्य आपूर्ति मान जाएगा और विषय वस्तु के मुद्रण की आपूर्ति को (जो कि आपूर्ति के प्राप्तकर्ता द्वारा आपूर्ति की गई हो) को वस्तुओं के मुख्य आपूर्ति की सहायक आपूर्ति माना जाएगा और इस प्रकार ऐसी आपूर्ति को सीमा शुल्क टैरिफ के अध्याय 48 या 49 के संबंधित शीर्ष के अंतर्गत वस्तुओं की आपूर्ति माना जाएगा ।

6. इस परिपत्र के लागू होने पर यदि कोई कठिनाई आ रही हो, तो उसे बोर्ड की जानकारी में लाया जाए ।

भवदीया,

(रचना)

टेक्निकल ऑफिसर (टीआरयू)

ई-मेल : rachna.irs@gov.in

F.No.354/117/2017-TRU (Pt-III)

Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

North Block, New Delhi
Dated 26th October, 2017

To

Principal Chief Commissioners/Principal Directors General,
Chief Commissioners/Directors General,
Principal Commissioners/Commissioners,
All under CBEC.

Madam/Sir,

Subject: Clarification regarding applicability of GST on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB]– Regarding.

Briefly stated, references have been received related to applicability of GST on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB].

2. In this context, LAB manufacturers have stated that they receive superior Kerosene oil (SKO) from, a refinery, say, Indian Oil Corporation (IOC). They extract n-Paraffin (C9-C13 hydrocarbons) from SKO and return back the remaining of SKO to the refinery. In this context, the issue has arisen as to whether in this transaction GST would be levied on SKO sent by IOC for extracting n-paraffin or only on the n-paraffin quantity extracted by the LAB manufactures. Further, doubt have also been raised as to whether the return of remaining Kerosene by LAB manufactures would separately attract GST in such transaction.

3. The matter was examined. LAB manufacturers generally receive superior kerosene oil [SKO] from a refinery through a dedicated pipeline; on an average about 15 to 17% of the total quantity of SKO received from refinery is retained and balance quantity ranging from 83%-85% is returned back to refinery. The retained SKO is towards extraction of Normal Paraffin, which is used in the manufacturing of LAB. In this transaction consideration is paid by LAB manufactures only on the quantity of retained SKO (n-paraffin).

4. In this context, the GST Council in its 22nd meeting held on 06.10.2017 discussed the issue and recommended for issuance of a clarification that in this transaction GST will be payable by the refinery on the value of net quantity of superior kerosene oil (SKO) retained for the manufacture of Linear Alkyl Benzene (LAB).

5. Accordingly, it is here by clarified that, in aforesaid case, GST will be payable by the refinery only on the net quantity of superior kerosene oil (SKO) retained for the manufacture

of Linear Alkyl Benzene (LAB). Though, refinery would be liable to pay GST on such returned quantity of SKO, when the same is supplied by it to any other person.

6. This clarification is issued in the context of Goods & Service Tax (GST) law only and past issues, if any, will be dealt in accordance with the law prevailing at the material time.

Yours faithfully,

(Amit Kumar Singh)
Technical Officer (TRU)
Email: amitsingh.1289@gov.in

अनु०335/117/2017-टीआरयू(पट-तृतीय)

भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
(टैक्स रिसर्च यूनिट)

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नॉर्थ ब्लॉक, नई दिल्ली,
दिनांक 26 अक्तूबर, 2017

सेवा में,

प्रिंसिपल चीफ कमिश्नर/प्रिंसिपल डायरेक्टर जनरल,
मुख्य आयुक्त/निदेशक जनरल,
प्रधान आयुक्त/आयुक्त
सीबीईसी के तहत सभी

मैडम/सर

विषय: लिनियर अल्केइल बेंजीन (एलएबी) के उत्पादन हेतु लिए गये बेहतर कैरोसिन तेल (एसकेओ) पर जीएसटी के प्रयोज्यता के बारे में स्पष्टीकरण-संबंधित

संक्षेप में कहा गया है, लिनियर अल्केइल बेंजीन (एलएबी) के उत्पादन हेतु लिए गये बेहतर कैरोसिन तेल (एसकेओ) पर जीएसटी के प्रयोज्यता से संबंधित संदर्भ प्राप्त हुए हैं ।

2. इस संदर्भ में एलएबी निर्माताओं ने कहा कि वे इंडियन ऑयल कॉर्पोरेशन (आईओसी) एक रिफाइनरी, से बेहतर मिट्टी के तेल (एसकेओ) प्राप्त करते हैं । वे एसकेओ से एन-पैराफिन (C9 - C13 हाइड्रोकार्बन) निकालते हैं और शेष एसकेओ को रिफाइनरी को वापस लौटाते हैं । इस संदर्भ में, मुद्दा सामने आया है कि इस सौदे में जीएसटी एन-पैराफिन निकालने के लिए आईओसी द्वारा भेजे गए एसकेओ पर लगेगा या एलएबी निर्माताओं द्वारा निकाले गए एन-पैराफिन मात्र पर ही लगेगा । इसके अलावा, यह संदेह भी उठाया गया है कि क्या एलएबी निर्माताओं द्वारा जो शेष कैरोसिन की वापसी की गई है ऐसा लेनदेन अलग से जीएसटी को आकर्षित करेगा ।

3. मामले की जांच की गई । एलएबी निर्माता आमतौर पर एक समर्पित पाइपलाइन के माध्यम से रिफाइनरी से बेहतर कैरोसिन तेल (एसकेओ) प्राप्त करते हैं, रिफाइनरी से प्राप्त कुल एसकेओ की औसत मात्रा का लगभग 15

से 17 प्रतिशत रखा जाता है और शेष राशि 83 प्रतिशत से 85 प्रतिशत तक रिफाइनरी में वापस लौटाई जाती है। इसकेओ सामान्य पैराफिन को निकालने में प्रयुक्त होता है, जो एलएबी के उत्पादन में उपयोग किया जाता है। इस प्रक्रिया में, एलएबी निर्माताओं द्वारा भुगतान केवल बनाए गए इसकेओ (एन-पैराफिन) की मात्रा पर किया जाता है।

4. इस संदर्भ में, जीएसटी परिषद ने 6.10.2017 को आयोजित अपनी 22वीं बैठक में व्याख्या की और स्पष्टीकरण जारी करने की सिफारिश की कि इस प्रक्रिया में जीएसटी रिफाइनरी द्वारा बेहतर कैरोसिन तेल(एसकेओ) की उस मात्रा के मूल्य पर देय होगा, जो कि लिनियर अल्केइल बेंजीन (एलएबी) के निर्माता एलएबी के उत्पादन के लिए रख लेते हैं।

5. तदनुसार, पूर्वोक्त मामले में, यहां यह स्पष्ट किया जाता है कि जीएसटी रिफाइनरी द्वारा केवल लिनियर अल्केइल बेंजीन (एलएबी) के उत्पादन के लिए रखे गए बेहतर कैरोसिन तेल (एसकेओ) की मात्रा पर देय होगा। यद्यपि रिफाइनरी एसकेओ की वापस की गई मात्रा पर किसी अन्य व्यक्ति को आपूर्ति करते समय जीएसटी का भुगतान करने के लिए उत्तरदायी होगा।

6. यह स्पष्टीकरण गुड्स एवं सर्विस टैक्स (जीसटी) कानून के संदर्भ में जारी किया गया है और पिछले मुद्दों पर, यदि कोई हो, तो उसे उस समय पर प्रचलित कानून के अनुसार निपटा जाएगा।

आपका आभारी,

(अमित कुमार सिंह)

तकनीकी अधिकारी (टीआरयू)

ईमेल: amitsingh.1289@gov.in

F. No. 354/129/2017-TRU

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

North Block, New Delhi

27th October 2017

To,

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

Madam/Sir,

Subject: Clarification on Unstitched Salwar Suits - regarding.

Doubts have been raised regarding the classification of Cut pieces of Fabrics under GST.

2. It has been represented that before becoming readymade articles or an apparel, the fabric is cut from bundles or thans and sold in that unstitched state. The consumers buy these sets or pieces and get it stitched to their shape and size.
3. Fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5% with no refund of the unutilized input tax credit.
4. Mere cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract the 5% GST rate.
5. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
6. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours faithfully,

Rahil Gupta

Technical Officer (TRU)

फा.सं. 354/129/2017-टीआरयू

भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
टैक्स रिसर्च यूनिट

नार्थ ब्लॉक, नई दिल्ली

27 अक्टूबर, 2017

सेवा में,

सभी प्रधान मुख्य आयुक्त/मुख्य आयुक्त/प्रधान आयुक्त
/केंद्रीय कर आयुक्त (सभी)/प्रधान महानिदेशक/
महानिदेशक (सभी)

विषय:- बिना सिले हुए सलवार शूट्स के बारे में स्पष्टीकरण-

जीएसटी के अंतर्गत कपड़ों के "कटपीसेस" के वर्गीकरण के बारे में व्यक्त किए गए संदेह।

2. ऐसी बातें कहीं गयी हैं कि रेडिमेंट वस्तुओं या परिधानों को तैयार किए जाने के पहले कपड़ों को बंडल या थान में से काटा जाता है और उनको बिना सिले हुए स्थिति में बेच दिया जाता है। उपभोक्ता इन सेटों या पीसो को खरीदकर अपनी नाप और आकार के अनुसार इसको सिलवा लेते हैं।
3. इन कपड़ों को सीमाशुल्क टैरिफ अधिनियम, 1975 की अनुसूची के अध्याय 50 से 55 के अंतर्गत उनके निर्माण सामग्री के आधार पर वर्गीकृत किया जाता है और इन पर 5 प्रतिशत की एक समान दर से जीएसटी लगाई जाती है और प्रयोग न किए गए इनपुट टैक्स क्रेडिट का रिफंड भी नहीं किया जाता है।
4. बंडल या थानों से विभिन्न लंबाई के टुकड़ों में इन कपड़ों को काटने मात्र से इन वस्तुओं की प्रकृति में कोई परिवर्तन नहीं होता है और कपड़ों के इन टुकड़ों को संबंधित शीर्ष के अंतर्गत उसी वर्ग में रखा जाता है और इन पर 5 प्रतिशत की जीएसटी दर लगती है।
5. अनुरोध किया जाता है कि इस परिपत्र के विषयवस्तु को प्रचार-प्रसार करने के लिए उपर्युक्त नोटिसे जारी की जाए।
6. इस परिपत्र के क्रियान्वयन में यदि कोई परेशानी आ रही हो तो उसे बोर्ड की जानकारी में लाया जाए।

भवदीय

राहिल गुप्ता
तकनीकी अधिकारी (टीआरयू)

F. No. 349/21/2016 GST (Policy Wing)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing

New Delhi, dated the 6th November, 2017

To,

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

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Sub - Procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of CGST Act, 2017 – reg.

In accordance with the decisions taken by the GST Council in its 22nd meeting held on 06.10.2017 at New Delhi to resolve certain difficulties being faced by exporters post-GST, it has been decided that supplies of goods by a registered person to EOUs etc. would be treated as deemed exports under Section 147 of the CGST Act, 2017 (hereinafter referred to as ‘the Act’) and refund of tax paid on such supplies can be claimed either by the recipient or supplier of such supplies. Accordingly, Notification No. 48/2017-Central Tax dated 18.10.2017 has been issued to treat such supplies to EOU / EHTP / STP / BTP units as deemed exports. Further, rule 89 of the CGST Rules, 2017 (hereinafter referred to as ‘the Rules’) has been amended vide Notification No. 47/2017- Central Tax dated 18.10.2017 to allow either the recipient or supplier of such supplies to claim refund of tax paid thereon.

2. For supplies to EOU / EHTP / STP / BTP units in terms of Notification No. 48/2017-Central Tax dated 18.10.2017, the following procedure and safeguards are prescribed -

(i) The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in a prescribed proforma in "Form-A" (appended herewith) bearing a running serial number containing the goods to be procured, as pre-approved by the Development Commissioner and the details of

the supplier before such deemed export supplies are made. The said intimation shall be given to –

- (a) the registered supplier;
 - (b) the jurisdictional GST officer in charge of such registered supplier; and
 - (c) its jurisdictional GST officer.
- (ii) The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.
- (iii) On receipt of such supplies, the EOU / EHTP / STP / BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to –
- (a) the registered supplier;
 - (b) the jurisdictional GST officer in charge of such registered supplier; and
 - (c) its jurisdictional GST officer.
- (iv) The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit.
- (v) The recipient EOU / EHTP / STP / BTP unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B" (appended herewith). The software for maintenance of digital records shall incorporate the feature of audit trail. While the data elements contained in the Form-B are mandatory, the recipient units will be free to add or continue with any additional data fields, as per their commercial requirements. All recipient units are required to enter data accurately and immediately upon the goods being received in, utilized by or removed from the said unit. The digital records should be kept updated, accurate, complete and available at the said unit at all times for verification by the proper officer, whenever required. A digital copy of Form – B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month (by the 10th of month) in a CD or Pen drive, as convenient to the said unit.

3. The above procedure and safeguards are in addition to the terms and conditions to be adhered to by a EOU / EHTP / STP / BTP unit in terms of the Foreign Trade Policy, 2015-20 and the duty exemption notification being availed by such unit.

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

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

(Upender Gupta)
Commissioner (GST)

Form – A

(Intimation for procurement of supplies from the registered person by Export Oriented Unit (EOU)/Electronic Hardware Technology Park (EHTP) Unit/ Software Technology Park (STP) unit/ Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of CGST Act,2017 read with Notification No. 48/2017-Central Tax dated 18.10.2017)

(as per Circular ----- dated -----)

Running Sr. No. of intimation and Date_____

LOP No. ----- and valid upto ----- .

GSTIN -----

We the, M/s(Name of EOU/EHTP/STP/BTP unit and address) wish to procure the Goods namely(Tariff description, Quantity and value) -----, as allowed under Foreign Trade Policy and Handbook of Procedures 2015-2020, and approved by Development Commissioner from M/s ----- (Name of supplier, address and Goods & Services Tax Identification Number(GSTIN)). Such supplies on receipt would be used in manufacturing of goods or rendering services by us. We would also abide by procedure set out in Circular no. ----- dated ----.

Signatures of the owner of
EOU/EHTP/STP/BTP unit or
his
Authorised officer

To:

- 1.The GST officer having Jurisdiction over the EOU/EHTP/STP/BTP unit.
2. The GST officer having Jurisdiction over the registered person intending to supply the goods.
3. The registered person intending to supply goods to EOU/EHTP/STP/BTP unit.

For the month of.....

FORM- B

Form to be maintained by EOU/EHTP/STP/BTP unit for the receipt, use and removal of goods received under deemed export benefit under section 147 of CGST Act,2017 read with Notification No. 48/2017-Central Tax dated 18.10.2017.

(as per Circular----- dated-----)

Name of EOU/EHTP/STP/BTP unit and address

GSTIN No.

Address of Jurisdiction GST Officer

Sr . No .	Date of prior intimation given for procuring deemed export supplies	Details of registered person			Jurisdictional GST officer details of registered person		Invoice no. and date of registered person		Details of supplies received			Amount of GST paid by supplier				Date of sending endorsed copy of tax invoice by EOU
		Name	Address	GSTIN	Designation	Jurisdictional Identifier such as Division name/No.	No. of Invoice	Date	Description	Value	Quantity	Central tax	State Tax / Union territory Tax	Integrated tax	Cesses	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

Removal for processing			Remarks (The goods removed for processing shall be accounted in a manner that enables the verification of input-output norms, extent of waste, scrap generated etc)		Other removals/Returns				Balance in stock	
Date & time of Removal	Quantity	value			Purpose of removal	Date & time	Quantity	value	Quantity	Value
18	19	20	21		22	23	24	25	26	27

**F.No. 349/164/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 6th November, 2017

To,

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

Madam/Sir,

**Sub –Due date for generation of FORM GSTR-2A and FORM GSTR-1A in
accordance with the extension of due date for filing FORM GSTR-1 and GSTR-2
respectively – reg.**

Please refer to Notification No. 30/2017-Central Tax dated 11th September 2017, and Notification 54/2017-Central Tax, dated 30th October, 2017 whereby the dates for filing **FORM GSTR-1**, **FORM GSTR-2** and **FORM GSTR-3** for the month of July, 2017 were extended. Queries have been received regarding the due dates for the generation of **FORM GSTR-2A** and **FORM GSTR-1A** in light of the said extension of dates. Therefore, in exercise of the powers conferred by sub-section (1) of section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as ‘the Act’), for the purpose of uniformity in the implementation of the Act, the following is clarified:

1. Sub-section (1) of section 37 of the Act read with sub-rule (3) of rule 59 of the CGST Rules, 2017 (hereinafter referred to as ‘the Rules’) provides that the details furnished in **FORM GSTR-1** by the supplier shall be made available electronically to the registered person (hereinafter referred to as ‘the recipient’) in **FORM GSTR-2A** after the due date for filing of **FORM GSTR-1**. Sub-section (2) of Section 38 read with sub-rule (1) of rule 60 of the said Rules provides for furnishing of details in **FORM- GSTR-2** after the 10th but before the 15th of the month succeeding the tax period. Further, sub-section (1) of section 38 read with sub-rule (1) of rule 60 provides that on the basis of the details contained in **FORM**

GSTR-2A, the recipient shall prepare and furnish the details of inward supply in **FORM GSTR-2** after verifying, validating, modifying or deleting, the details, if required. Since the due dates for furnishing the details in **FORM GSTR-1** and **FORM GSTR-2** have been extended, it is hereby clarified that the due date of **FORM GSTR-2A** is also extended. The details furnished in **FORM GSTR-1** are available to the recipient in **FORM GSTR-2A** from 11th of October, 2017. These details are also available in **FORM GSTR-2** and can be verified, validated, modified or deleted to prepare details in **FORM GSTR-2** which is required to be furnished not later than the 30th November, 2017. It is further clarified that the details in **FORM GSTR-2A** are also available in his **FORM GSTR-2** and the recipient may take necessary action on the same, prior to furnishing the details in his **FORM GSTR-2**. **FORM GSTR-2A** is a read-only document made available to the recipient electronically so that he has a record of all the invoices received from various suppliers during a given tax period.

2. Sub-section (3) of section 38 of the Act read with sub-rule (4) of rule 59 of the Rules provides that the details of inward supplies added, corrected or deleted by the recipient in **FORM GSTR-2** shall be made available to the concerned supplier electronically in **FORM GSTR-1A**. Further, sub-section (2) of section 37 of the Act read with sub-rule (4) of rule 59 of the Rules provides that once these details are made available electronically through the common portal to the supplier in **FORM GSTR-1A**, the supplier shall either accept or reject the modifications made by the recipient on or before the 17th day of the month succeeding the tax period but not before the 15th day, and accordingly, **FORM GSTR-1** shall stand amended to the extent of modifications accepted by the supplier. In this regard, it is hereby clarified that as the dates for furnishing the details in **FORM GSTR-1** and **FORM GSTR-2** have been extended, the due date for furnishing of **FORM GSTR-1A** for July 2017 is also extended. Therefore, the details in **FORM GSTR-1A** shall be made available to the supplier from the 1st of December to the 6th of December, 2017 for the month of July 2017.
3. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

F. No. 354/173/2017-TRU

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

North Block, New Delhi**15th November 2017**

To,

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

Madam/Sir,

**Subject: Clarifications regarding applicability of GST and availability of ITC in
respect of certain services**

I am directed to issue clarification with regard to certain issues brought to the notice of Board as under:

S. No.	Issue	Comment
1.	Is GST applicable on warehousing of agricultural produce such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc.?	1. As per GST notification No. 11/2017-Central Tax (Rate), S.No. 24 and notification No. 12/2017-Central Tax (Rate), S.No. 54, dated 28th June 2017, the GST rate on loading, unloading packing, storage or warehousing of agricultural produce is Nil. 2. Agricultural produce in the notification has been defined to mean “any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market” 3. Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same. 4. Thus, green tea leaves and not tea is the “agricultural produce” eligible for exemption available for loading, unloading, packing, storage or warehousing

		of agricultural produce. Same is the case with coffee obtained after processing of coffee beans. 5. Similarly, processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce. 6. Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of dehusking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore pulses (dehusked or split) are also not agricultural produce. However whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce. 7. In view of the above, it is hereby clarified that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce given in notification No. 11/2017-CT(Rate) and 12/2017-CT(Rate) and corresponding notifications issued under IGST and UGST Acts and therefore the exemption from GST is not available to their loading, packing, warehousing etc. and that any clarification issued in the past to the contrary in the context of Service Tax or VAT/ Sales Tax is no more relevant.
2.	Is GST leviable on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines?	1. Under Schedule I of the CGST Act, supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business, even if, without consideration, attracts GST. 2. It is hereby clarified that credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter-state supply of such aircraft engines, parts & accessories by way of inter-state stock transfers between distinct persons as specified in section 25 of the CGST Act, notwithstanding that credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air in economy class at GST rate of 5%.
3.	Is GST leviable on General Insurance policies provided by a	It is hereby clarified that services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid

State Government to employees of the State government/ Police personnel, employees of Electricity Department or students of colleges/ private schools etc. (a) where premium is paid by State Government and (b) where premium is paid by employees, students etc.?	by the Central Government, State Government, Union territory are exempt from GST under Sl. No. 40 of notification No. 12/2017-Central Tax (Rate). Further, services provided by State Government by way of general insurance (managed by government) to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt vide entry 6 of notification No. 12/2017- CT(R) which exempts Services by Central Government, State Government, Union territory or local authority to individuals.
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2. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Rachna
Technical Officer (TRU)
Email: rachna.irs@gov.in

फाइल संख्या 354/173/2017-टीआरयू

भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
कर अनुसंधान एकक

नार्थ ब्लॉक, नई दिल्ली,
दिनांक , 2017

सेवा में,

प्रधान मुख्य आयुक्त/मुख्य आयुक्त/प्रधान आयुक्त/आयुक्त, केन्द्रीय कर (सभी)/प्रधान महानिदेशक/महानिदेशक (सभी)

महोदया/महोदय,

विषय: कतिपय सेवाओं के बारे में जीएसटी के लागू होने और उन पर आईटीसी की उपलब्धता के बारे में स्पष्टीकरण ।

मुझे बोर्ड की जानकारी में लाए गए कतिपय मुद्दों के बारे में निम्नलिखित स्पष्टीकरण देने का निदेश हुआ है ;

क्र.सं.	प्रश्न	टिप्पणी
1.	क्या कृषि उत्पादों जैसे कि चाय (काली चाय, सफेद चाय आदि) प्रसंस्कृत काफी बीन्स या पाउडर, दालें (छिलका रहित या दली हुई) गुड प्रसंस्कृत मसालों, प्रसंस्कृत ड्राई फूट्स प्रसंस्कृत काजू आदि की वेयर हाउसिंग पर जीएसटी लगती है या नहीं ।	जीएसटी अधिसूचना संख्या 11/2017-केन्द्रीय कर (दर) के क्रम संख्या 24 और अधिसूचना संख्या 12/2017-केन्द्रीय कर (दर) के क्रम संख्या 54, दिनांक 28 जून, 2017 के अनुसार कृषि उत्पादों की लदाई, उतराई, पैकिंग, भंडारण या वेयर हाउसिंग पर शून्य दर से जीएसटी लगाई जाती है । 2. इस अधिसूचना में कृषि उत्पादों को 'किसी पौधे की खेती से प्राप्त उत्पाद' या पशुपालन से प्राप्त उत्पाद, घोड़ों के पालन को छोड़कर, खाद्य प्रदार्थ, फाइबर, ईंधन, कचरा माल या इसी प्रकार के उत्पादों के रूप में परिभाषित किया गया है जिस पर या तो अन्य कोई प्रसंस्करण नहीं होता है या ऐसा कोई प्रसंस्करण होता भी है तो वह किसी किसान या ऐसे उत्पादक द्वारा सामान्यतया किया जाता है जिससे इसके अनिवार्य गुण में परिवर्तन नहीं होता है बल्कि इसे प्राथमिक बजारों में बेचने के योग्य बनाया जाता है ।

	3. पेय तैयार करने में प्रयोग की जाने वाली चाय जैसे कि काली चाय, ग्रीन टी, वाइट टी, एक ऐसा प्रसंस्कृत उत्पाद है जो कि किसी चाय के कारखाने में विभिन्न प्रक्रियाओं जैसे कि ड्राईंग, रोलिंग, शैपिंग, रिफायनरी, ऑक्सीडेशन, पैकिंग आदि, जो कि हरी पत्ती पर की जाती है के बाद तैयार होती है, और इस प्रकार ये इसका प्रसंस्कृत उत्पाद होती है । 4. इस प्रकार चाय की हरी पत्ती न कि चाय 'कृषि उत्पाद' होती है और इसी पर ही वह छूट दी जा सकती है जो कि कृषि उत्पादों की लदाई, उतराई, पैकिंग, भंडारण या वेयर हाउसिंग के लिए दी जाती है । यही स्थिति काफी बिंस के प्रसंस्करण से तैयार की गई काफी के मामले में भी है । 5. इसी प्रकार गन्ने का प्रसंस्करण करके जो गुड बनाया जाता है इससे इसके अनिवार्य गुण बदल जाते हैं अतः गुड को भी कृषि उत्पाद नहीं माना जा सकता । 6. दालें वे होती हैं जिन्हें छिल्के से अलग किया गया होता है या जिनकी दराई हुई होती है या इनकी दराई की जो प्रक्रिया होती है वह सामान्यतया न तो किसानों द्वारा की जाती है और न ही उनके खेतों में होती है । बल्कि यह दाल मिलों के द्वारा की जाती है । अतः इन दालों को (जो कि छिलके से अलग होती हैं या दली हुई होती हैं) कृषि उत्पाद नहीं माना जाता है हालांकि साबुत दलहन जैसे कि चना राजमा आदि को कृषि उत्पाद की परिभाषा के दायरे में माना जाता है । 7. उपर्युक्त बातों को देखते हुए एतदद्वारा यह स्पष्ट किया जाता है कि प्रसंस्कृत उत्पाद जैसे कि चाय (काली चाय, सफेद चाय आदि), प्रसंस्कृत काफी बिंस या पाउडर, दालें (छिलके से रहित या दली हुई) गुड़, प्रसंस्कृत मसाले, प्रसंस्कृत ड्राई फ्रूट्स, प्रसंस्कृत काजू नट्स उन कृषि उत्पादों की परिभाषा से बाहर हैं जो कि अधिसूचना संख्या 11/2017-सी.टी. (दर) और 12/2017-सीटी (दर) और वे संबंधित अधिसूचनाओं जो कि आईजीएसटी और यूजीएसटी अधिनियमों के अंतर्गत जारी की गई हैं में दिए गए हैं और इसलिए इनकी लदाई, पैकिंग वेयर हाउसिंग आदि पर जीएसटी से छूट उपलब्ध नहीं है और विगत
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		में जारी अस्पष्टीकरण जो कि सेवा कर या व्यय/बिक्री कर के विरुद्ध हैं अब संगत नहीं हैं ।
2.	क्या एयरक्राफ्ट के इंजनों उनके कलपुर्जों और सहायक वस्तुओं जो कि अपनी ही एयरलाइन में प्रयोग करने के लिए हों, के अंतरराज्यीय अंतरण पर जीएसटी लगाई जा सकती है ?	सीजीएसटी एक्ट की अनुसूची 1 के अंतर्गत 02 संबंधित व्यक्तियों या अलग-अलग व्यक्तियों, जो कि धारा 25 में विनिर्दिष्ट हैं के बीच की जाने वाली वस्तुओं या सेवाओं या दोनों की आपूर्ति, जब इनकी आपूर्ति कारोबार को आगे बढ़ाने की दिशा में हो, चाहे इसके लिए कोई प्रतिफल न भी हो, पर जीएसटी लगता है । 2. एतद्वारा स्पष्ट किया जाता है कि एयरक्राफ्ट के इंजनों उनके कलपुर्जों और सहायक वस्तुओं पर भुगतान की गई जीएसटी की क्रेडिट एयरक्राफ्ट के ऐसे इंजनों, कलपुर्जों और सहायक वस्तुओं का जब 02 अलग-अलग व्यक्तियों जो कि सीजीएसटी एक्ट की धारा 25 के अंतर्गत विनिर्दिष्ट हैं के बीच अंतरराज्यीय स्टॉक अंतरण के रूप में अंतरण हो रहा हो तो उस पर मिलती है । बावजूद इसके की ऐसी वस्तुओं के उपभोग पर भारी इनपुट टैक्स की क्रेडिट 5 प्रतिशत की जीएसटी दर पर इकोनामी क्लास में यात्रियों के हवाई परिवहन की सेवा पर नहीं दी जाती है ।
3.	क्या राज्य सरकार के कर्मचारियों/पुलिस कार्मिकों, विद्युत विभाग के कर्मचारियों या कालेजों/निजी स्कूलों के विद्यार्थियों आदि को राज्य सरकार द्वारा प्रदान की जा रही जनरल इंश्योरेंस पॉलिसी पर जीएसटी लगता है (क) जहां प्रीमियम को राज्य सरकार के द्वारा भरा जाता है; और (ख) जहां प्रीमियम कर्मचारियों, विद्यार्थियों आदि द्वारा भरा जाता है ।	एतद्वारा यह स्पष्ट किया जाता है कि केन्द्र सरकार, राज्य सरकार, संघ राज्य को किसी बीमा योजना के अंतर्गत प्रदान की जाने वाली सेवाओं को, जिसमें पूरा का पूरा प्रीमियम केन्द्र सरकार, राज्य सरकार या संघ राज्य क्षेत्र के द्वारा भरा जाता है, अधिसूचना संख्या 12/2017-केन्द्रीय कर (दर) के क्रम संख्या 40 के अंतर्गत जीएसटी से छूट दी गई है । इसके अलावा सामान्य बीमा (सरकार द्वारा प्रबंधित) के माध्यम से राज्य सरकार द्वारा राज्य सरकार के कर्मचारियों/पुलिस कार्मिकों, विद्युत विभाग के कर्मचारियों या विद्यार्थियों को दी जाने वाली सेवा के मामले में अधिसूचना संख्या 12/2017-सीटी (आर) की प्रवृष्टि 6 के तहत उन्हीं सेवाओं को छूट प्राप्त है जिनको केन्द्र सरकार, राज्य सरकार, संघ राज्य क्षेत्र या स्थानीय निकायों के द्वारा व्यक्तियों को दी जाती है ।

6. इस परिपत्र के लागू होने पर यदि कोई कठिनाई आ रही हो, तो उसे बोर्ड की जानकारी में लाया जाए ।

भवदीया,

(रचना)

टेक्निकल ऑफिसर (टीआरयू)

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Circular No. 17/17/2017 - GST

**F. No. 349/169/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 15th November, 2017

To,

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

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Sub – Manual filing and processing of refund claims in respect of zero-rated supplies - reg.

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/documents/forms pertaining to refund claims on account of zero-rated supplies shall be filed and processed manually till further orders. Therefore, in exercise of the powers conferred by sub-section (1) of section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as ‘the CGST Act’) and for the purpose of ensuring uniformity, the following conditions and procedure are laid down for the manual filing and processing of the refund claims:

2.1 As per sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as ‘the IGST Act’) read with clause (i) of sub-section (3) and sub-section (6) of section 54 of the CGST Act and rules 89 to 96A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as ‘the CGST Rules’), a registered person may make zero-rated supplies of goods or services or both on payment of integrated tax and claim refund of the tax so paid, or make zero-rated supplies of goods or services or both under bond or Letter of Undertaking without payment of integrated tax and claim refund of unutilized input tax credit in relation to such zero rated supplies.

2.2 The refund of integrated tax paid on goods exported out of India is governed by rule 96 of the CGST Rules. The shipping bill filed by an exporter shall be deemed to be an application for refund in such cases. The application shall be deemed to have been filed only when export manifest or export report is filed and the applicant has furnished a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be. Upon receipt of the information regarding furnishing of a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be, from the common portal, the system designated by the Customs shall process the claim for refund and an amount equal to the integrated tax paid in respect of such export shall be electronically credited to the bank account of the applicant. Any order regarding withholding of such refund or its further sanction respectively in PART-B of **FORM GST RFD-07** or **FORM GST RFD-06** shall be done manually till the refund module is operational on the common portal.

2.3 The application for refund of integrated tax paid on zero-rated supply of goods to a Special Economic Zone developer or a Special Economic Zone unit or in case of zero-rated supply of services (that is, except the cases covered in paragraph 2.2 above and para 2.4 below) is required to be filed in **FORM GST RFD-01A** (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) by the supplier on the common portal and a print out of the said form shall be submitted before the jurisdictional proper officer along with all necessary documentary evidences as applicable (as per the details in statement 2 or 4 of Annexure to **FORM GST RFD – 01**), within the time stipulated for filing of such refund under the CGST Act.

2.4 The application for refund of unutilized input tax credit on inputs or input services used in making such zero-rated supplies shall be filed in **FORM GST RFD-01A** on the common portal and the amount claimed as refund shall get debited in accordance with sub-rule (3) of rule 86 of the CGST Rules from the amount in the electronic credit ledger to the extent of the claim. The common portal shall generate a proof of debit (ARN- Acknowledgement Receipt Number) which would be mentioned in the **FORM GST RFD-01A** submitted manually, along with the print out of **FORM GST RFD-01A** to the jurisdictional proper officer, and with all necessary documentary evidences as applicable (as per details in statement 3 or 5 of Annexure to **FORM GST RFD-01**), within the time stipulated for filing of such refund under the CGST Act.

2.5 The registered person needs to file the refund claim with the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner

of State Tax. In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. It is reiterated that the Central Tax officers shall facilitate the processing of the refund claims of all registered persons whether or not such person was registered with the Central Government in the earlier regime.

2.6 Once such a refund application in **FORM GST RFD-01A** is received in the office of the jurisdictional proper officer, an entry shall be made in a refund register to be maintained for this purpose with the following details –

Table 1

Sl. No.	Applicant's name	GSTIN	Date of receipt of application	Period to which the claim pertains	Nature of refund – Refund of integrated tax paid/Refund of unutilized ITC	Amount of refund claimed	Date of issue of acknowledgment in FORM GST RFD-02	Date of receipt of complete application (as mentioned in FORM GST RFD-02)
1	2	3	4	5	6	7	8	9

2.7 Further, all communication in regard to the FORMS mentioned below shall be done manually, within the timelines as specified in the relevant rules, till the module is operational on the common portal, and all such communications shall also be recorded appropriately in the refund register as discussed in the succeeding paragraphs –

Sl.No.	FORM	Details	Relevant provision of the CGST Rules, 2017
1.	FORM GST RFD-02	Acknowledgement	Rules 90(1) and 90(2)
2.	FORM GST RFD-03	Deficiency memo	Rule 90(3)
3.	FORM GST RFD-04	Provisional refund order	Rule 91(2)
4.	FORM GST RFD-05	Payment advice	Rules 91(3), 92(4), 92(5)

			and 94
5.	FORM GST RFD-06	Refund sanction/Rejection order	Rules 92(1), 92(3), 92(4), 92(5) and 96(7)
6.	FORM GST RFD-07	Order for complete adjustment/withholding of sanctioned refund	Rules 92(1), 92(2) and 96(6)
7.	FORM GST RFD-08	Notice for rejection of application for refund	Rule 92(3)
8.	FORM GST RFD-09	Reply to show cause notice	Rule 92(3)

2.8 The processing of the claim till the provisional sanction of refund shall be recorded in the refund register as in the table indicated below -

Table 2

Date of issue of Deficiency Memo in FORM GST RFD-03	Date of receipt of reply from the applicant	Date of issue of provisional refund order in FORM GST-RFD-04	Amount of refund claimed	Amount of provisional refund sanctioned				Date of issue of Payment Advice in FORM GST RFD-05
				CT	ST/UTT	IT	Cess	
1	2	3	4	5	6	7	8	9

2.9 After the sanction of provisional refund, the claim shall be processed and the final order issued within sixty days of the date of receipt of the complete application form. The process shall be recorded in the refund register as in the table indicated below -

Table 3

Date of issue of notice, if any for rejection of refund in FORM	Date of receipt of reply, if any to SCN in FORM	Date of issue of Refund sanction/rejection order in FORM GST RFD-06	Total amount of refund sanctioned	Date of issue of Payment Advice in FORM GST RFD-05	Amount of refund rejected	Date of issue of order for adjustment of sanctioned refund/withholding
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GST RFD-08	GST RFD-09											refund in FORM GST RFD-07
			C T	ST/UT T	I T	Ces s		C T	ST/UT T	IT	Ces s	
1	2	3	4	5	6	7	8	9	10	11	12	13

2.10 After the refund claim is processed in accordance with the provisions of the CGST Act and the rules made thereunder and where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-03**. The amount would be credited by the proper officer using **FORM GST RFD-01B** (as notified in the CGST Rules vide notification No. 55/2017 – Central Tax dated 15.11.2017) subject to the provisions of rule 93 of the CGST Rules.

3. For the sake of clarity and uniformity, the entire process of filing and processing of refunds manually is tabulated as below:

3.1 Filing of Refund Claims:

Sl. No.	Category of Refund	Process of Filing
1.	Refund of IGST paid on export of goods	No separate application is required as shipping bill itself will be treated as application for refund.
2.	Refund of IGST paid on export of services / zero rated supplies to SEZ units or SEZ developers	Printout of FORM GST RFD-01A needs to be filed manually with the jurisdictional GST officer (only at one place - Centre or State) along with relevant documentary evidences, wherever applicable.
3.	Refund of unutilized input tax credit due to the accumulation of credit of tax paid on inputs or input services used in making zero-rated supplies of goods or services or both	FORM GST RFD-01A needs to be filed on the common portal. The amount of credit claimed as refund would be debited in the electronic credit ledger and proof of debit needs to be generated on the common portal. Printout of the

		FORM GST RFD- 01A needs to be submitted before the jurisdictional GST officer along with necessary documentary evidences, wherever applicable.
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3.2 Steps to be followed for processing of Refund Claims:

Three different refund registers are to be maintained for record keeping of the manually sanctioned refunds – for receipts, sanction of provisional refunds and sanction of final refunds. The steps are as follows:

Step No.	Action to be Taken
Step-1	Entry to be made in the Refund register for receipt of refund applications
Step-2	Check for completeness of application as well as availability of the supporting documents in totality. Once completeness in all respects is ascertained, acknowledgement in FORM GST RFD-02 shall be issued within 15 days from the date of filing of the application and entry shall be made in the Refund register for receipt of refund applications
Step-3	• All communications (issuance of deficiency memo, issuance of provisional and final refund orders, payment advice etc.) shall be done in the format prescribed in the Forms appended to the CGST Rules, and shall be done manually (i.e. not on the common portal) within the timelines prescribed in the rules; • Processing for grant of provisional refund shall be completed within 7 days as per the CGST Rules and details to be maintained in the register for provisional refunds. Bifurcation of the taxes to be refunded under CGST (CT) /SGST (ST) /UTGST (UT) /IGST (IT) /Cess shall be maintained in the register mandatorily; • After the sanction of the provisional refund, final order is to be issued within sixty days (after due verification of the documentary evidences) of the date of receipt of the complete application form. The details of the finally sanctioned refund and rejected portion of the refund along with the breakup (CT / ST / UT / IT/ Cess) to be maintained in the final refund register; • The amount not sanctioned and eligible for re-credit is to be re-credited to the electronic credit ledger by an order made in FORM GST PMT-03. The actual credit of this amount will be done by the proper officer in FORM GST RFD-01B.

3.3 Detailed procedure for manual processing of refund claims:

The detailed procedure for disposal of Refund claims filed manually is as under:

MANUAL PROCESSING OF REFUND		
STEPS	REMARKS	LEGAL PROVISIONS
Filing of refund application in FORM GST RFD- 01A online on the common portal (only when refund of unutilized ITC is claimed)	The corresponding electronic credit ledger of CT / ST / UT / IT/ Cess would get debited and an ARN number would get generated.	Rule 89
Filing of printout of FORMGST RFD-01A	- The printout of the ARN along with application of refund shall be submitted manually in the appropriate jurisdiction. - This form needs to be accompanied with the requisite documentary evidences. This Form shall contain the debit entry in the electronic credit ledger of the amount claimed as refund in FORM GST RFD-01A.	Rule 89(1) – Application Rule 89(2) – Requisite Documents Rule 89(3) – Debiting of electronic credit ledger
Initial scrutiny of the Documents by the proper officer	- The proper officer shall validate the GSTIN details on the portal to validate whether return in FORM GSTR-3 or FORM GSTR- 3B, as the case may be, has been filed. A declaration is required to be submitted by the claimant that no refund has been claimed against the relevant invoices. - Deficiencies, if any, in documentary evidences are to be ascertained and communicated in	Rule 90(2) – 15 day time for scrutiny Rule 90(3) – Issuance of Deficiency memo Rule 90(3) – Fresh refund application requirement Rule 93(1) – re-credit of refund amount applied for

	FORM GST RFD-03 within 15 days of filing of the refund application. • Deficiency Memo should be complete in all respects and only one Deficiency Memo shall be given. • Submission of application after Deficiency Memo shall be treated as a fresh application. • Resubmission of the application, after rectifying the deficiencies pointed out in the Deficiency memo, shall be made by using the ARN and debit entry number generated originally. • If the application is not filed afresh within thirty days of the communication of the deficiency memo, the proper officer shall pass an order in FORM GST PMT-03 and re-credit the amount claimed as refund through FORM GST RFD-01B.	
Issue acknowledgement manually within 15 days in FORM GST RFD-02	• The date of submission of application for which acknowledgement has been given will be considered as the date for ensuring whether the refund application has been sanctioned within the stipulated time period.	Rule 90(2) - Acknowledgement

Grant of provisional refund within seven days of issue of acknowledgement	• The amount of provisional refund shall be calculated taking into account the total input tax credit, without making any reduction for credit being provisionally accepted. • Provisional refund shall be granted separately for each head CT / ST / UT / IT/ Cess within 7 days of acknowledgement in FORM GST RFD-04. • Before sanction of the refund a declaration shall be obtained that the applicant has not contravened rule 91(1). • Payment advice to be issued in FORM GST RFD-05. • Refund would be made directly in the bank account mentioned in the registration.	Rule 91(1) – Requirement of no prosecution for last 5 years Rule 91(2) – Prima facie satisfaction, seven day requirement Rule 91(3) – Payment advice, electronic credit to bank account
Detailed scrutiny of the refund application along with submitted documents	• The officer shall validate refund statement details with details in FORM GSTR 1 (or Table 6A of FORM GSTR-1) available on the common portal. • The Shipping bill details shall be checked by officer through ICEGATE SITE (www.icegate.gov.in) wherein the officer would be able to check details of EGM and shipping bill by keying in port name, Shipping bill number and date. • Further, details of IGST paid also needs to be	Rule 89(4) – Refund Amount Calculation Rule 92(1) – Any adjustments made in the amount against existing demands Rule 92(2) – reasons for withholding of refunds

	verified from FORM GSTR- 3 or FORM GSTR- 3B, as the case may be, filed by the applicant and it needs to be verified that the refund amount claimed shall be less than the tax paid on account of zero rated supplies as per FORM GSTR-3 or FORM GSTR- 3B, as the case may be. • Ascertain what amount may be sanctioned finally and see whether any adjustments against any outstanding liability is required (FORM GST RFD-07 – Part A). • Ascertain what amount of the input tax credit is sanction-able, and amount of refund, if any, liable to be withheld. • Order needs to be passed in FORM GST RFD-07 – Part B.	
If the sanction-able amount is less than the applied amount	• Notice has to be issued to the applicant in FORM GST RFD-08. • The applicant has to reply within 15 days of receipt of the notice in FORM GST RFD-09. • Principles of natural justice to be followed before making the final decision. • Final order to be made in FORM GST RFD-06.	Rule 92(3) – Notice for refund not admissible / payable Rule 92(3) – Requirement of reply to the notice within 15 days Rule 92(3), 92(4), 92(5) – Sanction of Refund order
Pre-Audit	• Pre-audit of the manually processed refund applications is not required to be	

	carried out, irrespective of the amount involved, till separate detailed guidelines are issued. • Post-audit of the orders may however continue on the basis of extant guidelines.	
Final sanction of refund	• The proper officer shall issue the refund order manually for each head i.e. CT / ST / UT / IT/ Cess. • Amount paid provisionally needs to be adjusted accordingly. • Payment advice is to be made in FORM GST RFD-05. • The amount of credit rejected has to be re-credited to the credit ledger by an order in FORM GST PMT- 03 and shall be intimated to the common portal in FORM GST RFD-01B. • Refund, if any, will be paid by an order with payment advice in FORM GST RFD-05. • The details of the refund along with taxpayer bank account details shall be manually submitted in PFMS/[States'] system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to PAO office for release of payment.	Rule 92(3), 92(4), 92(5) – Sanction of Refund order Rule 92(4), 92(5) – Payment advice issue
Payment of interest if any	• Amount, if any, will be paid by an order with	Rule 94

	payment advice in FORM GST RFD-05.	
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4. The refund application for various taxes i.e. CT / ST / UT / IT/ Cess can be filed with any one of the tax authorities and shall be processed by the said authority, however the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Centre or State government. In other words, the payment of the sanctioned refund amount in relation to CT / IT / Cess shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to ST / UT would be made by the State tax/Union territory tax authority. It therefore becomes necessary that the refund order issued either by the Central tax authority or the State tax/UT tax authority is communicated to the concerned counter-part tax authority within three days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be.

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

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

(Upender Gupta)
Commissioner (GST)

F. No. 354/320/2017-TRU-Pt.1

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

**North Block, New Delhi
16th November 2017**

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

Madam/Sir,

Subject: Clarification on refund of unutilized input tax credit of GST paid on inputs in respect of exporters of fabrics - regarding.

Doubts have been raised regarding the restrictions of refund of unutilized input tax credit of GST paid on inputs to manufacturer exporters of fabrics [falling under chapters 50 to 55 and 60 and headings 5608, 5801, 5806] under GST.

2.1 The matter has been examined. In this context, subsection 3 of section 54 of the CGST Act, 2017 provides as under:

“(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:
Provided that no refund of unutilised input tax credit shall be allowed in cases other than—

- (i) zero rated supplies made without payment of tax;
- (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

2.2 Based on the recommendations of the GST Council, Notification No. 5/2017-Central Tax(Rate) dated 28.06.2017 [as amended from time to time] has been issued under clause (ii) of the proviso to sub-section (3) of section 54 of the CGST Act, 2017 restricting refund of unutilised input tax credit of GST paid on inputs in respect of certain specified goods, including input tax credit of GST paid on inputs.

2.3 However, the aforesaid notification having been issued under clause (ii) of the proviso to sub-section (3) of section 54 of the CGST Act, 2017, restriction on refund of unutilised input tax credit of GST paid on inputs will not be applicable to zero rated

supplies, that is (a) exports of goods or services or both; or (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

2.4 Accordingly, as regards export of fabrics it is clarified that, subject to the provisions of sub-section (10) of the section 54 of the CGST Act, 2017, a manufacturer of such fabrics will be eligible for refund of unutilized input tax credit of GST paid on inputs [other than the input tax credit of GST paid on capital goods] in respect of fabrics manufactured and exported by him.

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

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Raghav', with the date '16/11/17' written next to it.

Rahil Gupta

Technical Officer (TRU)

Reg.—Clarification on refund of unutilized ITC of GST

Department of Revenue—Tax Research Unit—Government of India
F.No.354/320/2017/TRU—Circular No.18/18/2017/GST—16-11-2017

Doubts have been raised regarding the restrictions of refund of unutilized input tax credit of GST paid on inputs to manufacturer exporters of fabrics [falling under chapters 50 to 55 and 60 and headings 5608, 5801, 5806] under GST.

2.1 The matter has been examined. In this context, sub-section 3 of Section 54 of the CGST Act, 2017 provides as under :—

“(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than —

- (i) zero rated supplies made without payment of tax;
- (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

2.2 Based on the recommendations of the GST Council, Notification No.5/2017-Central Tax (Rate) dated 28-06-2017 [as amended from time to time] has been issued under clause (ii) of the proviso to sub-section (3) of Section 54 of the CGST Act, 2017 restricting refund of unutilized input tax credit of GST paid on inputs in respect of certain specified goods, including input tax credit of GST paid on inputs.

2.3 However, the aforesaid notification having been issued under clause (ii) of the proviso to sub-section (3) of Section 54 of the CGST Act, 2017, restriction on refund of unutilised input tax credit of GST paid on inputs will not be applicable to zero rated supplies, that is (a) exports of goods or services or both; or (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

2.4 Accordingly, as regards export of fabrics it is clarified that, subject to the provisions of sub-section (10) of the Section 54 of the CGST Act, 2017, a manufacturer of such fabrics will be eligible for refund of unutilized input tax credit of GST paid on inputs [other than the input tax credit of GST paid on capital goods] in respect of fabrics manufactured and exported by him.

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

— **Rahil Gupta, Technical Officer (TRU)**

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परिपत्र सं. 18/18/2017-जीएसटी

फा.सं. 354/320/2017-टीआरयू-पट.1

भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
टैक्स रिसर्च यूनिट

नार्थ ब्लॉक, नई दिल्ली 16 नवम्बर , 2017

सेवा में,

प्रधान मुख्य आयुक्त/मुख्य आयुक्त/प्रधान आयुक्त
/आयुक्त, केंद्रीय कर (सभी)/प्रधान महानिदेशक/
महानिदेशक (सभी)

महोदया/महोदय,

विषय: कपड़ों के निर्यातकों से संबंधित इनपुट्स पर भुगतान किए गए जीएसटी की इनपुट टैक्स क्रेडिट, जिसका उपयोग न किया गया हो, के रिफंड से संबंधित स्पष्टीकरण- की बावत

जीएसटी के अंतर्गत कपड़ों [जोकि अध्याय 50 से 55 और 60 तथा शीर्ष 5608, 5801, 5806 के अंतर्गत आते हैं] के अंतर्गत इनपुट पर भुगतान किए गए जीएसटी के इनपुट टैक्स क्रेडिट, जिनका उपयोग न किया गया हो, का विनिर्माता निर्यातकों को रिफंड किए जाने के बारे में लगाए गए प्रतिबंधों के बारे में कुछ संदेह व्यक्त किए गए हैं।

2.1 इस मामले पर विचार किया गया है। सीजीएसटी एक्ट, 2017 की धारा 54 की उप-धारा (3) के अंतर्गत ऐसा प्रावधान है, कि:

उप-धारा (10) के प्रावधानों के अधीन रहते हुए कोई भी पंजीकृत व्यक्ति अनप्रयुक्त इनपुट टैक्स क्रेडिट का किसी कर की अवधि के अंत में रिफंड के लिए दावा कर सकता है:

बशर्ते कि किसी भी अनप्रयुक्त इनपुट टैक्स क्रेडिट का निम्न से भिन्न मामलों में रिफंड नहीं किया जाएगा-

- i. कर के भुगतान के बिना जीरो रेटेड सप्लाय की गई हो;
- ii. जहां पर क्रेडिट इस कारण से संचित हुआ है की इनपुट पर कर की दर, आउटपुट आपूर्ति पर कर की दर से अधिक है (शून्य दर वाले या पूरी तरह से छूट प्राप्त आपूर्तियों से भिन्न), जीएसटी परिषद की सिफारिशों के आधार पर सरकार द्वारा यथा अधिसूचित वस्तुओं की आपूर्ति या सेवाओं या दोनों को छोड़कर।

2.2 जीएसटी परिषद की सिफारिशों के आधार पर सीजीएसटी एक्ट-2017 की धारा 54 की उप-धारा (3) के परंतुक के उप-वाक्य (ii) के अंतर्गत अधिसूचना 5/2017-केंद्रीय कर (दर) दिनांक 28.06.2017 [समय-समय पर यथा संशोधित] को जारी करके कुछ वस्तुओं से संबंधित इनपुट्स पर भुगतान किए गए सीजीएसटी के इनपुट टैक्स क्रेडिट, जिसमें इनपुट्स पर भुगतान किए गए जीएसटी के इनपुट टैक्स क्रेडिट भी शामिल हैं, जिनका उपयोग न किया गया हो के रिफंड के बारे में प्रतिबंध लगा दिए गए हैं।

2.3 चूंकि उपर्युक्त अधिसूचना को उक्त परंतुक के उप-वाक्य (ii) के अंतर्गत जारी किया गया है अतः इसका उक्त परंतुक के (i) की प्रयोजता पर कोई प्रभाव नहीं पड़ेगा और इनपुट पर भुगतान किए गए जीएसटी के इनपुट टैक्स क्रेडिट, जिसका की उपयोग न किया गया हो के रिफंड पर लगाए गए प्रतिबंध जीरो रेटेड आपूर्तियों पर लागू नहीं होंगे अर्थात्

(क) वस्तुओं या सेवाओं या दोनों का निर्यात या

(ख) वस्तुओं या सेवाओं या दोनों की विशेष आर्थिक जोन के डेवलेपर या विशेष आर्थिक जोन की इकाईयों को आपूर्ति की गयी हो।

2.4 तदनुसार, कपड़ों के निर्यात के संबंध में यह स्पष्ट किया जाता है कि, सीजीएसटी अधिनियम, 2017 की धारा 54 के उप-धारा (10) के प्रावधानों के अधीन, कपड़ों के उत्पादक अपने द्वारा निर्मित और निर्यातित कपड़ों से संबंधित इनपुट पर भुगतान किए गए जीएसटी की इनपुट टैक्स क्रेडिट (कैपिटल गुड्स पर जीएसटी के इनपुट टैक्स क्रेडिट के अलावा), जिसका कि उपयोग न किया गया हो, के रिफंड के पात्र होंगे।

3. इस परिपत्र के क्रियान्वयन में यदि कोई परेशानी आ रही हो तो उसे बोर्ड की जानकारी में लाया जाए।

भवदीय

राहिल गुप्ता
28/11/17

राहिल गुप्ता

तकनीकी अधिकारी (टीआरयू)

F. No. 354/263/2017-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

North Block, New Delhi
20th November 2017

To,

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

Madam/Sir,

Subject: Clarification on taxability of custom milling of paddy – regarding.

Representations have been received seeking clarification on whether custom milling of paddy by Rice millers for Civil Supplies Corporation is liable to GST or is exempted under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017.

2. The matter has been examined. S. No 55 of Notification 12/2017- Central Tax (Rate) exempts carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce. Agricultural produce has been defined in the notification to mean, *any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.* Job work has been defined under section 2 (68) of the CGST Act to mean *any treatment or process undertaken by a person on goods belonging to another registered person.* Further, under Schedule II (para 3) of the CGST Act, *any treatment or process which is applied to another person's goods is a supply of service.*

3. Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce.

4. In view of the above, it is clarified that milling of paddy into rice is not eligible for exemption under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017 and corresponding notifications issued under IGST and UTGST Acts.

5. GST rate on services by way of job work in relation to all food and food products falling under Chapters 1 to 22 has been reduced from 18% to 5% vide notification No. 31/2017-CT(R) [notification No. 11/2017-CT (Rate) dated 28.6.17, S.No. 26 *refers*]. Therefore, it is hereby clarified that milling of paddy into rice on job work basis, is liable to GST at the rate of 5%, on the processing charges (and not on the entire value of rice).

6. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours Faithfully,

Susanta Mishra

Technical Officer (TRU)

Email: susanta.mishra87@gov.in

F. No. 354/320/2017 –TRU (Pt)
Government of India
Ministry of Finance
Department of Revenue
Tax Research Unit

North Block, New Delhi
Dated the 22nd of November, 2017

To,

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

Subject: Issue related to classification and GST rate on Terracotta idols – regarding

The GST rate on Idols made of clay is nil. (S.No. 135A of Schedule notification 2/2017 dated 28.06.2017).

2. In this connection, references have been received as to whether this entry would cover idols made of terracotta.

3. The matter has been examined. As terracotta is clay based, terracotta idols will be eligible for Nil rate under Sl. No.135A of notification 2/2017 dated 28.06.2017.

maybe, is leviable on repairs and maintenance done for such goods.

4. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

(Ruchi Bisht)
Under Secretary (TRU)

परिपत्र सं. 20/20/2017-आईजीएसटी

फा.सं. 354/320/2017-टीआरयू (पीटी)

भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
कर अनुसंधान एकक

नार्थ ब्लॉक, नई दिल्ली
दिनांक 22 नवंबर, 2017

सेवा में,

प्रधान मुख्य आयुक्त/मुख्य आयुक्त/प्रधान आयुक्त/
केंद्रीय कर आयुक्त (सभी)/महानिदेशक प्रणाली

विषय: 'टेराकोटा मूर्तियों' का वर्गीकरण और उन पर जीएसटी की दर- **के विषय में**

'क्ले' से बनी मूर्तियों पर जीएसटी की दर शून्य है। (अधिसूचना सं. 2/2017, दिनांक 28.06.2017 की अनुसूची की क्रम सं. 135क।

2. इस संबंध में ऐसे संदर्भ प्राप्त हुए हैं जिनमें यह पूछा गया है कि क्या इस प्रविष्टि के दायरे में टेराकोटा से बनी मूर्तियां भी आती हैं।

3. इस मामले पर विचार-विमर्श किया जा चुका है। टेराकोटा क्ले आधारित होता है अतः टेराकोटा की मूर्तियों पर अधिसूचना सं. 2/2017, दिनांक 28.06.2017 की क्रम सं. 135 क के अंतर्गत जीएसटी की दर शून्य हो सकती है।

4. इस परिपत्र के कार्यान्वयन में यदि कोई कठिनाई आ रही हो तो उसे बोर्ड की जानकारी में लाया जायें।

(रूचि विष्ट)
अवर सचिव (टीआरयू)

F. No. 354/320/2017 –TRU (Pt)
Government of India
Ministry of Finance
Department of Revenue
Tax Research Unit

North Block, New Delhi
Dated the 22nd of November, 2017

To,

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

Subject: Clarification on Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes]- regarding.

The issue of IGST exemption on inter-state movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017, carrying goods or passengers or both; or for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] was examined and a circular 1/1/2017-IGST dated 7.7.2017, was issued clarifying that such inter-state movement shall be treated “neither as a supply of goods nor supply of service” and therefore would not be leviable to IGST.

2. The issue pertaining to inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes] was discussed in GST Council’s meeting held on 10th November, 2017 and the Council recommended that the circular 1/1/2017-IGST shall *mutatis mutandis* apply to inter-state movement of such goods, and except in cases where movement of such goods is for further supply of the same goods, such inter-state movement shall be treated ‘neither as a supply of goods or supply of service,’ and consequently no IGST would be applicable on such movements.

3. In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.

4. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

(Ruchi Bisht)
Under Secretary (TRU)

फा.सं. 354/320/2017-टीआरयू (पीटी)

भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
कर अनुसंधान एकक

नार्थ ब्लॉक, नई दिल्ली
दिनांक 22 नवंबर, 2017

सेवा में,

प्रधान मुख्य आयुक्त/मुख्य आयुक्त/प्रधान आयुक्त/
केंद्रीय कर आयुक्त (सभी)/महानिदेशक प्रणाली

विषय: रिक्स, टूल्स और स्पेयर्स तथा पहियायुक्त सभी सामानों [जैसे कि क्रेन्स] के अंतर्राज्जीय आवागमन का वर्गीकरण-के विषय में

वाहन के विभिन्न साधनों के अंतर्राज्जीय आवागमन, जो कि केंद्रीय माल एवं सेवाकर अधिनियम, 2017 की धारा 25(4) में यथा विनिर्दिष्ट सुस्पष्ट व्यक्तियों के बीच हो रहा हो, जिसमें माल या यात्री या दोनों लाये ले जाए जाते हों; या जो मरम्मत या रख-रखाव के लिए लाया ले जाया जाता हो [उन मामलों को छोड़कर जहां ऐसा आवागमन उसी वाहन की आगे की आपूर्ति के लिए हो रहा हो], को आईजीएसटी से छूट दिए जाने के मुद्दे की जांच-परख की गई और एक परिपत्र सं. 1/1/2017-आईजीएसटी दिनांक 07-07-2017 को जारी करके यह स्पष्ट कर दिया गया था कि ऐसे अंतर्राज्जीय आवागमन को “न तो वस्तुओं की आपूर्ति माना जाएगा और न ही सेवाओं की आपूर्ति” और परिणामतः ऐसे आवागमन पर कोई आईजीएसटी नहीं लगाया जाएगा।

2. रिक्स, टूल्स और स्पेयर्स तथा पहियायुक्त सभी सामानों [जैसे कि क्रेन्स] के आवागमन के मुद्दे पर दिनांक 10 नवंबर, 2017 को हुई जीएसटी परिषद की बैठक में विचार-विमर्श किया गया था और परिषद ने यह सिफारिश की थी कि परिपत्र सं. 1/1/2017-आईजीएसटी यथा आवश्यक संशोधनों के उपरांत ऐसी वस्तुओं के अंतर्राज्जीय आवागमन पर लागू होगा और उन मामलों को छोड़कर जहां कि ऐसा आवागमन उसी वस्तु के आगे की आपूर्ति का हो रहा हो, ऐसे अंतर्राज्जीय आवागमन को “न तो वस्तुओं की आपूर्ति माना जाएगा और न सेवाओं की आपूर्ति” और परिणामतः ऐसे आवागमन पर कोई आईजीएसटी नहीं लगाया जाएगा।

3. इस संदर्भ में यह बात पुनः कही जाती है कि सीजीएसटी/एसजीएसटी/आईजीएसटी, जैसी भी स्थिति हो ऐसी वस्तुओं की मरम्मत और रख-रखाव पर लागू होगी।

4. इस परिपत्र के कार्यान्वयन में यदि कोई कठिनाई आ रही हो तो उसे बोर्ड की जानकारी में लाया जायें।

(रूचि विष्ट)
अवर सचिव (टीआरयू)

F. No. 349/58/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing

New Delhi, dated 21st December, 2017

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 on issues regarding treatment of supply by an artist in various States and supply of goods by artists from galleries—Reg.

Various representations have been received regarding taxation of the supply of art works by artists in different States other than the State in which they are registered as a taxable person. In such cases, if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply. It has been represented that the artists give their work of art to galleries where it is exhibited for supply. There seems to be confusion regarding the treatment of this activity whether it is taxable in the hands of the artist when the same is given to the art gallery or at the time of actual supply by the gallery. Therefore, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter.

2. It is seen that clause (c) of sub-rule (1) of rule 55 of the Central Goods and Services Tax Rules, 2017 (hereafter referred as “the said Rules”) provides that the supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply. Further, sub-rule (3) of the said rule provides that the said delivery challan shall be declared as specified in rule 138 of the said Rules. It is also seen that sub-rule (4) of rule 55 of the said Rules provides that where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

3. A combined reading of the above provisions indicates that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work.

4. It is also clarified that the supplies of the art work from one State to another State will be inter-State supplies and attract integrated tax in terms of section 5 of the Integrated Goods and Services Tax Act, 2017.

5. It is further clarified that in case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for

exhibition and therefore, the same is not a supply. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

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

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

8. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

**F. No. 349/58/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, dated 21st December, 2017

To,

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

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Issues in respect of maintenance of books of accounts relating to additional place of business by a principal or an auctioneer for the purpose of auction of tea, coffee, rubber etc.- regarding

Various communications have been received regarding the difficulties being faced by a principal and an auctioneer in relation to maintaining books of accounts at each and every additional place of business related to stock of goods like tea, coffee, rubber, etc. meant for supply through an auction. Therefore, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter.

2. As per the first proviso of section 35(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') both the principal and the auctioneer are required to maintain the books of accounts relating to their additional place(s) of business in such places. It has been represented that both the principal as well as the auctioneer may be allowed to maintain the books of accounts relating to the additional place(s) of business at their principal place of business itself.

3. The issue has been examined. In exercise of the powers conferred under section 168 (1) of the CGST Act, for the purpose of uniformity in the implementation of the Act, it is hereby clarified that -

- (a) The principal and the auctioneer of tea, coffee, rubber etc. are required to declare warehouses where such goods are stored as their additional place of business. The buyer is also required to disclose such warehouse as his additional place of

business if he wants to store the goods purchased through auction in such warehouses.

- (b) Both the principal and the auctioneer are required to maintain the books of accounts relating to each and every place of business in that place itself as per the first proviso to sub-section (1) of section 35 of the CGST Act. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s).
 - (c) Such principal or auctioneer shall intimate their jurisdictional proper officer in writing about the maintenance of books of accounts relating to additional place(s) of business at their principal place of business.
 - (d) Further, the principal or the auctioneer shall be eligible to avail input tax credit (ITC) subject to the fulfilment of other provisions of the Act and the rules made thereunder.
4. It is further clarified that this Circular is applicable to the supply of tea, coffee, rubber, etc. where the auctioneer claims ITC in respect of the supply made to him by the principal before the auction of such goods and the said goods are supplied only through auction.
5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
6. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board.
7. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

**F. No. 349/58/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, dated the 21st December, 2017

To,

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

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Sub – Manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger- Reg.

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/documents/forms pertaining to refund claims on account of inverted duty structure (including supplies in terms of notification Nos. 40/2017-Central Tax (Rate) and 41/2017-Integrated Tax (Rate) both dated 23.10.2017), deemed exports and excess balance in electronic cash ledger shall be filed and processed manually till further orders. In this regard, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 hereby clarifies that the provisions of Circular No. 17/17/2017-GST dated 15.11.2017 shall also be applicable to the following types of refund inasmuch as they pertain to the method of filing of the refund claim and its processing which is consistent with the relevant provisions of the CGST Act, 2017 (hereafter referred to as ‘the CGST Act’) and the CGST Rules, 2017 (hereafter referred to as ‘the CGST Rules’):-

- (i) refund of unutilized input tax credit where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) of goods or services or both except those supplies which are notified by the Government on the recommendations of the Council (section 54(3) of the CGST Act refers);
- (ii) refund of tax on the supply of goods regarded as deemed exports; and
- (iii) refund of balance in the electronic cash ledger.

2.0 It is clarified that refund claims in respect of zero-rated supplies and on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed for a tax period on a monthly basis in **FORM GST RFD-01A**. However, in case registered persons having aggregate turnover of up to Rs1.5 crore in the preceding financial year or the current financial year are opting to file **FORM GSTR-1** quarterly (notification No. 57/2017-Central Tax dated 15.11.2017 refers), such persons shall apply for refund on a quarterly basis. Further, it is stated that the refund claim for a tax period may be filed only

after filing the details in **FORM GSTR-1** for the said tax period. It is also to be ensured that a valid return in **FORM GSTR-3B** has been filed for the last tax period before the one in which the refund application is being filed. Since the date of furnishing of **FORM GSTR 1** from July, 2017 onwards has been extended while the dates of furnishing of **FORM GSTR 2** and **FORM GSTR 3** for such period are yet to be notified, it has been decided by the competent authority to sanction refund of provisionally accepted input tax credit at this juncture. However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded. This undertaking should be submitted manually along with the refund claim till the same is available in **FORM RFD-01A** on the common portal.

3.0 In case of refund claim arising due to inverted duty structure, the following statements - Statement 1 and Statement 1A of **FORM GST RFD-01A** have to be filled:-

Statement -1 [rule 89(5)]

Refund Type: ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]

(Amount in Rs.)

Turnover of inverted rated supply of goods	Tax payable on such inverted rated supply of goods	Adjusted total turnover	Net input tax credit	Maximum refund amount to be claimed [(1×4÷3)-2]
1	2	3	4	5

Statement 1A [rule 89(2)(h)]

Refund type: ITC accumulated due to inverted tax structure [clause (ii) of first proviso to section 54(3)]

Sl. N o.	Details of invoices of inward supplies received			Tax paid on inward supplies			Details of invoices of outward supplies issued			Tax paid on outward supplies		
	N o.	Date	Taxable Value	Integrated Tax	Central Tax	State/Union territory Tax	N o.	Date	Taxable Value	Integrated Tax	Central Tax	State/Union territory Tax
1	2	3	4	5	6	7	8	9	10	11	12	13

4.0 Whereas, the Government has issued notification No. 48/2017-Central Tax dated 18.10.2017 under section 147 of the CGST Act wherein certain supplies of goods have been notified as deemed export. Further, the third proviso to rule 89(1) of the CGST Rules allows the recipient or the supplier to apply for refund of tax paid on such deemed export supplies. In case such refund is sought by the supplier of deemed export supplies, the documentary evidences as specified in notification No. 49/2017-Central Tax dated 18.10.2017 are also required to be furnished which includes an undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and that no input tax credit on such supplies has been availed of by him. The undertaking should be submitted manually along with the refund claim. Similarly, in case the refund is filed by the recipient of deemed export supplies, an undertaking by the supplier of deemed export supplies that he shall not claim the refund in respect of such supplies is also required to be furnished manually. The procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export as laid down in Circular No. 14/14/2017-GST dated 06.11.2017 needs to be complied with.

4.1 Further, as per the provisions of rule 89(2)(g) of the CGST Rules, the following statement 5B of **FORM GST RFD-01A** is required to be furnished for claiming refund on supplies declared as deemed exports:-

Statement 5B [rule 89(2)(g)]

Refund type: On account of deemed exports

(Amount in Rs)

Sl. No.	Details of invoices of outward supplies in case refund is claimed by supplier/ Details of invoices of inward supplies in case refund is claimed by recipient			Tax paid			
	No.	Date	Taxable Value	Integrated Tax	Central Tax	State /Union Territory Tax	Cess
1	2	3	4	5	6	7	8

5.0 It is reiterated that para 2.5 of Circular No. 17/17/2017-GST dated 15.11.2017 may be referred to in order to ascertain the jurisdictional proper officer to whom the manual application for refund is to be submitted. Where any amount claimed as refund is rejected under rule 92 of the CGST Rules, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST RFD-1B** until the **FORM GST PMT-03** is available on the common portal. Further, the payment of the sanctioned refund amount shall be made only by the respective tax authority of the Central or State Government. Thus, the refund order issued either by the Central tax authority or the State tax/UT tax authority shall be communicated to the concerned counter-

part tax authority within seven working days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be. This time limit of seven working days is also applicable to refund claims in respect of zero-rated supplies being processed as per Circular No. 17/17/2017-GST dated 15.11.2017 as against the time limit of three days prescribed in para 4 of the said Circular. It must be ensured that the timelines specified under section 54(7) and rule 91(2) of the CGST Rules for the sanction of refund are adhered to.

6.0 In order to facilitate sanction of refund amount of central tax and State tax by the respective tax authorities, it has been decided that both the Central and State Tax authority shall nominate nodal officer(s) for the purpose of liaisoning through a dedicated e-mail id. Where the amount of central tax and State tax refund is ordered to be sanctioned provisionally by the Central tax authority and a sanction order is passed in accordance with the provisions of rule 91(2) of the CGST Rules, the Central tax authority shall communicate the same, through the nodal officer, to the State tax authority for making payment of the sanctioned refund amount in relation to State tax and vice versa. The aforesaid communication shall primarily be made through e-mail attaching the scanned copies of the sanction order [**FORM GST RFD-04** and **FORM GST RFD-06**], the application for refund in **FORM GST RFD-01A** and the Acknowledgement Receipt Number (ARN). Accordingly, the jurisdictional proper officer of Central or State Tax, as the case may be, shall issue **FORM GST RFD-05** and send it to the DDO for onward transmission for release of payment. After release of payment by the respective PAO to the applicant's bank account, the nodal officer of Central tax and State tax authority shall inform each other. The manner of communication as referred earlier shall be followed at the time of final sanctioning of the refund also.

7.0 In case of refund claim for the balance amount in the electronic cash ledger, upon filing of **FORM GST RFD-01A** as per the procedure laid down in para 2.4 of Circular No. 17/17/2017-GST dated 15.11.2017, the amount of refund claimed shall get debited in the electronic cash ledger.

8.0 It is also clarified that the drawback of all taxes under GST (Central Tax, Integrated Tax, State/Union Territory Tax) should not have been availed while claiming refund of accumulated ITC under section 54(3)(ii) of the CGST Act. A declaration to this effect forms part of **FORM GST RFD-01A** as well.

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

10.0 Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board.

11.0 Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

**F. No. 275/22/2017-CX.8A
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, dated 21st December, 2017

To,

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

Principal Director Generals/Director Generals (All)

**Sub: Manual filing of applications for Advance Ruling and appeals before Appellate
Authority for Advance Ruling - reg**

As per rules 104 and 106 of the CGST Rules, 2017 (hereinafter referred to as “the CGST Rules”) the application for obtaining an advance ruling and filing an appeal against an advance ruling shall be made by the applicant on the common portal. However, due to the unavailability of the requisite forms on the common portal, a new rule 107A has been inserted vide notification No. 55/2017-Central Tax, dated 15.11.2017, which states that in respect of any process or procedure prescribed in Chapter XII, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include the manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to the CGST Rules.

2. Therefore, in exercise of the powers conferred by sub-section (1) of section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as ‘the CGST Act’) on the recommendations of the Council and for the purpose of ensuring uniformity in the processing of such manual applications till the advance ruling module is made available on the common portal, the following conditions and procedure are prescribed for the manual filing and processing of the applications.

Form and Manner of Application to the Authority for Advance Ruling

3. An application for obtaining an advance ruling under sub-section (1) of section 97 of the CGST Act and the rules made thereunder, shall be made in quadruplicate, in **FORM GST ARA-01**. The application shall clearly state the question on which the advance ruling is sought. The application shall be accompanied by a fee of five thousand rupees which is to be deposited online by the applicant, in the manner specified under section 49 of the CGST Act. It is reiterated that though the application shall be filed manually till the advance ruling module is made available on the common portal, the fee is required to be deposited online in terms of section 49 of the CGST Act.

4. In order to make the payment of fee for filing an application for Advance Ruling on the common portal, the applicant has to fill his details using “Generate User ID for Advance Ruling” under “User Services”. After entering the email id and mobile number, a One Time Password (OTP) shall be sent to the email id. Upon submission of OTP, Systems shall generate a temporary ID and send it to the declared email and mobile number of the applicant. On the basis of this ID, the applicant can make the payment of the fee of Rs. 5,000/- each under the CGST and the respective SGST Act. The applicant is then required to download and take a print of the challan and file the application with the Authority for Advance Ruling.

5. The application, the verification contained therein and all the relevant documents accompanying such application shall be signed-

(a) in the case of an individual, by the individual himself or where he is absent from India, by some other person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu Undivided Family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family or by the authorised signatory of such Karta;

(c) in the case of a company, by the Chief Executive Officer or the authorised signatory thereof;

(d) in the case of a Government or any Governmental agency or local authority, by an officer authorised in this behalf;

(e) in the case of a firm, by any partner thereof, not being a minor or the authorised signatory thereof;

(f) in the case of any other association, by any member of the association or persons or the authorised signatory thereof;

(g) in the case of a trust, by the trustee or any trustee or the authorised signatory thereof; or

(h) in the case of any other person, by some person competent to act on his behalf, or by a person authorised in accordance with the provisions of section 48 of the CGST Act.

Form and Manner of Appeal to the Appellate Authority for Advance Ruling

6. An appeal against the advance ruling issued under sub-section (6) of section 98 of the CGST Act and the rules made thereunder shall be made by an applicant in quadruplicate, in **FORM GST ARA-02** and shall be accompanied by a fee of ten thousand rupees to be deposited online, in the manner specified in section 49 of the CGST Act. It is reiterated that though the application shall be filed manually till the advance ruling module is made available on the common portal, the fee is required to be deposited online in terms of section 49 of the CGST Act. The payment of fee shall be made as detailed in para 4 above.

7. An appeal made by the concerned officer or the jurisdictional officer referred to in section 100 of the CGST Act and the rules made thereunder shall be filed in quadruplicate, in **FORM GST ARA-03** and no fee shall be payable by the said officer for filing the appeal. As per section 100 (2) of the CGST Act, the appeal shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicant or the concerned officer or the jurisdictional officer, as the case maybe.
8. The appeal, the verification contained therein and all the relevant documents accompanying such appeal shall be signed-
- (a) in the case of the concerned officer or jurisdictional officer, by an officer authorised in writing by such officer; and
 - (b) in the case of an applicant, in the manner specified in Para 5 above.
9. The application for advance ruling or the appeal before the Appellate Authority shall be filed in the jurisdictional office of the respective State Authority for Advance Ruling or the State Appellate Authority for Advance Ruling respectively.
10. If the space provided for answering any item in the Forms is found to be insufficient, separate sheets may be used. Further, the application, the verification appended thereto, the Annexures to the application and the statements and documents accompanying the Annexures must be self-attested.
11. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
12. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board.
13. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

Circular No. 26/26/2017-GST

F. No. 349/164/2017/-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing

New Delhi, Dated the 29th December , 2017

To,

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

Subject: Filing of Returns under GST- regarding

The GST Council, in its 23rd meeting held at Guwahati on 10th November 2017, has taken certain decisions in regard to filing of returns by taxpayers. Subsequently, various representations have been received seeking clarifications on various aspects of return filing such as return filing dates, applicability and quantum of late fee, amendment of errors in submitting / filing of **FORM GSTR-3B** and other related queries. In order to consolidate the information in various notifications and circulars regarding return filing and to ensure uniformity in implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 hereby clarifies the following issues:

1. Return Filing Calendar:

1.1 Dates for filing of **FORM GSTR-1** and **FORM GSTR-3B** have been put in a calendar format for ease of understanding as under:

Return Filing Dates		January 2018		February 2018			March 2018		April 2018			May 2018
		10	20	10	15	20	10	20	10	20	30	10
Up to 1.5 Crore	GSTR - 3B		Dec 3B			Jan 3B		Feb 3B		Mar 3B		Apr 3B
	GSTR -1	Jul - Sep 2017			Oct - Dec 2017						Jan- Mar 2017	
Greater than 1.5 Crore	GSTR - 3B		Dec 3B			Jan 3B		Feb 3B		Mar 3B		Apr 3B
	GSTR -1	July to Nov 2017		Dec 2017			Jan 2018		Feb 2018			Mar 2018

1.2 It may be noted that all registered persons are required to file their **FORM GSTR-3B** on a monthly basis in terms of Notification No. 35/2017-Central Tax (referred to as “CT” hereinafter) dated 15th September, 2017 and 56/2017-CT dated 15th November 2017. Further, Notification No. 71/2017-CT and Notification No. 72/2017 – CT both dated 29th December 2017 (superseding Notification No. 57/2017-CT and 58/2017-CT both dated 15th November 2017) have been issued to notify the due dates for filing of outward supply statement in **FORM GSTR-1** for various months / quarters (as depicted in the calendar above) by registered persons having aggregate turnover in the previous financial year or current financial year of upto 1.5 Crores rupees and above 1.5 Crores rupees respectively. Since, the option of quarterly filing was not available earlier, many taxpayers have already filed their **FORM GSTR-1** for the month of July, such taxpayers shall not file these details again and shall only file details for the month of August and September, 2017. For those, who have not filed their **FORM GSTR-1** for the month of July, they shall also file their **FORM GSTR-1**

for the month of July separately and then file their **FORM GSTR-1** on quarterly basis for the month of August and September, 2017.

1.3 It has been further decided that the time period of filing of **FORM GSTR-2** and **FORM GSTR -3** for the months of July 2017 to March 2018 would be worked out by a Committee of officers and communicated later.

1.4 Registered persons opting for Composition scheme are required to file their returns quarterly in **FORM GSTR-4**. The due date for filing of **FORM GSTR-4** for the quarter ending September 2017 has been extended to 24th December 2017 vide Notification No. 59/2017-CT dated 15th November 2017. For the remaining quarters, the last date for filing of **FORM GSTR-4** is within eighteen days after the end of such quarter.

1.5 It is also clarified that the registered person will self-assess his aggregate turnover in terms of Section 2(6) of the CGST Act, 2017 for the previous financial year or the current financial year (in case of new registrants). Based on this self-assessed turnover, the registered person with turnover up to Rs. 1.5 Crore will be required to file **FORM GSTR-1** on quarterly basis instead of on monthly basis. It is also clarified that the registered person may opt to file **FORM GSTR-1** on monthly basis if he so wishes even though his aggregate turnover is up to Rs. 1.5 Crore. Once he falls in this bracket or if he chooses to file return on monthly basis, the registered person will not have the option to change the return filing periodicity for the entire financial year. In cases, where the registered person wrongly reports his aggregate turnover and opts to file **FORM GSTR-1** on quarterly basis, he may be liable for punitive action under the CGST Act, 2017.

2. **Applicability and quantum of late fee:**

2.1 The late fee for the months of July, August and September for late filing of **FORM GSTR – 3B** has already been waived off vide Notification No. 28/2017-CT dated 1st September 2017 and 50/2017-CT dated 24th October 2017.

2.2 It has been decided that for subsequent months, i.e. October 2017 onwards, the amount of late fee payable, by a taxpayer whose tax liability for that month was 'NIL', will be Rs. 20/- per day (Rs. 10/- per day each under CGST & SGST Acts) instead of Rs. 200/- per day (Rs. 100/- per day each under CGST & SGST Acts). For other taxpayers, whose tax liability for that month was not 'NIL', late fee payable will be Rs. 50/- per day (Rs. 25/- per day each under CGST & SGST Acts) instead of Rs. 200/- per day (Rs. 100/- per day each under CGST & SGST Acts). Notification No. 64/2017-CT dated 15th November 2017 has already been issued in this regard.

3. **Amendment / corrections / rectification of errors:**

3.1 Various representations have been received wherein registered persons have requested for clarification on the procedure for rectification of errors made while filing their **FORM GSTR-3B**. In this regard, Circular No. 7/7/2017-GST dated 1st September 2017 was issued which clarified that errors committed while filing **FORM GSTR – 3B** may be rectified while filing **FORM GSTR-1** and **FORM GSTR-2** of the same month. Further, in the said circular, it was clarified that the system will automatically reconcile the data submitted in **FORM GSTR-3B** with **FORM GSTR-1** and **FORM GSTR-2**, and the variations if any will either

be offset against output tax liability or added to the output tax liability of the subsequent months of the registered person.

3.2 Since, the GST Council has decided that the time period of filing of **FORM GSTR-2** and **FORM GSTR -3** for the month of July 2017 to March 2018 would be worked out by a Committee of officers, the system based reconciliation prescribed under Circular No. 7/7/2017-GST dated 1st September 2017 can only be operationalized after the relevant notification is issued. The said circular is therefore kept in abeyance till such time.

3.3 The common errors while submitting **FORM GSTR-3B** and the steps needed to be taken to rectify the same are provided in the table annexed herewith. The registered person needs to decide at which stage of filing of **FORM GSTR-3B** he is currently at and also the error committed by him. The corresponding column in the table provides the steps to be followed by him to rectify such error.

4. It is clarified that as return in **FORM GSTR-3B** do not contain provisions for reporting of differential figures for past month(s), the said figures may be reported on net basis alongwith the values for current month itself in appropriate tables i.e. Table No. 3.1, 3.2, 4 and 5, as the case may be. It may be noted that while making adjustment in the output tax liability or input tax credit, there can be no negative entries in the **FORM GSTR-3B**. The amount remaining for adjustment, if any, may be adjusted in the return(s) in **FORM GSTR-3B** of subsequent month(s) and, in cases where such adjustment is not feasible, refund may be claimed. Where adjustments have been made in **FORM GSTR-3B** of multiple months, corresponding adjustments in **FORM GSTR-1** should also preferably be made in the corresponding months.

5. Where the taxpayer has committed an error in submitting (before offsetting and filing) the information in **FORM GSTR-3B**, a provision for editing the same has been provided. The facility to edit the information can be used only before offsetting the liability and editing will not be permitted after offsetting the liability. Hence, every care should be taken to ensure the accuracy of the figures before proceeding to offset the liabilities.

6. It is further clarified that the information furnished by the registered person in the return in **FORM GSTR-3B** would be reconciled by the department's system with the information furnished in **FORM GSTR-1** and discrepancies, if any, shall be dealt with in accordance with the relevant provisions of the CGST Act, 2017 and rules made thereunder. Detailed instructions regarding reconciliation of information furnished in **FORM GSTR-3B** with that contained in **FORM GSTR-2** and **FORM GSTR-3** will be issued in due course of time.

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

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

(Upender Gupta)
Commissioner (GST)

Common Error– I	Stage of Return Filing (GSTR - 3B)			
	Stage 1	Stage 2	Stage 3	Stage 4
	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step.	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step.	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed.
Liability was under reported	Use “Edit” facility to add under reported liability.	Use "Edit" facility to add such liability and additional cash, if required (i.e. where sufficient balances are not available in the credit or cash ledgers) may be deposited in the cash ledger by creating challan in FORM GST PMT-06 .	Liability may be added in the return of subsequent month(s) after payment of interest.	
	<i>Company A has four units in Haryana, while filing their return for the month of July, they inadvertently, missed on details of a last minute order. Since, they had already submitted and confirmed their output supply details, they were not sure of how to proceed. What can they do?</i> <i>The company may use the ‘edit return’ facility to add such liability in their submitted return and then proceed for filing of their return.</i>	<i>Company A has four units in Haryana, while filing their return for the month of July, they inadvertently, missed on details of a last minute order. Since, they had already submitted and confirmed their output supply details, but were not sure of how to proceed. They added cash in the cash to the extent of their under reported liability. What can they do?</i> <i>The company may use the ‘edit return’ facility to add such liability in their submitted return. Further, the company may generate a fresh challan under FORM GST PMT-06 to additional cash or utilize their credit and</i>	<i>Company A has four units in Haryana, while filing their return for the month of July, they inadvertently, missed on details of a last minute order. The Company had filed their returns in order to not pay late fee and other penalties. What can they do?</i> <i>In this case, they may report this additional liability in the return of next month and pay tax with interest.</i>	

		<i>furnish their return.</i>	
Change in FORM GSTR-1	If such liability was not reported in FORM GSTR-1 of the month/quarter, then such liability may be declared in the subsequent month's/quarter's FORM GSTR-1 in which payment was made.		

Common Error - II	Stage of Return Filing (GSTR - 3B)			
	Stage 1	Stage 2	Stage 3	Stage 4
	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step.	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step.	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed.
Liability was over reported	Use “Edit” facility to reduce over reported liability.	Use “Edit” facility to reduce over reported liability and cash ledger may be partially debited to offset such liability. Remaining balance may either be claimed as refund or used to offset future liabilities.	Liability may be adjusted in return of subsequent month(s) or refund may be claimed where adjustment is not feasible.	
	<i>Company B had reported an inter-State sale but realized that the same sale was counted twice and hence was not to be reported. But the return form was already submitted and no change could be done to the liabilities. What can company B do?</i>	<i>Company B had reported an inter-State sale but realized that the same sale was counted twice and hence was not to be reported or taxed. But the return form was already submitted and no change could be done to reduce the liabilities. Further, the company had already deposited cash in their cash ledger before realizing this error. What can company B do?</i>	<i>Company B had reported an inter-State sale but realized that the same sale was counted twice and hence was not to be reported or taxed. But the return form was already filed and no change could be done to reduce the liabilities. What can company B do?</i>	
	<i>In this case, Company B has the option to use the "edit" facility to reduce such liability and proceed to file their return.</i>	<i>In this case, Company B has the option to use the "edit" facility to reduce such liability. Once, this is done, they can partially debit their cash ledger to offset their tax liability. Further, remaining balance can either be claimed as refund or used to offset future liabilities.</i>	<i>In this case, they may reduce this liability in the return of subsequent months or claim refund of the same.</i>	
Change in FORM GSTR-1	Where the liability was over reported in the month’s / quarter’s FORM GSTR-1 also, then such liability may be amended through amendments under Table 9 of FORM GSTR-1			

Common Error - III	Stage of Return Filing (GSTR - 3B)			
	Stage 1	Stage 2	Stage 3	Stage 4
	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step.	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step.	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed.
Liability was wrongly reported	Use “Edit” facility to rectify wrongly reported liability.	Use “Edit” facility to rectify wrongly reported liability and cash ledger may be debited to offset new liability, where sufficient balances are not available in the credit ledger. Remaining balance, if any may be either claimed as refund or used to offset future liabilities.	Unreported liability may be added in the next month’s return with interest, if applicable. Also, adjustment may be made in return of subsequent month(s) or refund may be claimed where adjustment is not feasible.	
	<i>Company C is registered in the State of Haryana. While entering their outward supplies in FORM GSTR-3B, the company realized that they had inadvertently, shown inter-State supply as intra-State supply and submitted the return. What can they do?</i> <i>In this case, the company will have to rectify wrongly reported liability using the edit facility. Here, the company will reduce their Central Tax / State tax supplies and liability and add integrated tax liability and proceed to file their return.</i>	<i>Company C is registered in the State of Haryana. While entering their outward supplies in FORM GSTR-3B, the company realized that they had inadvertently, shown inter-State supply as intra-State supply and submitted the return. Further, they also had updated their Central Tax and State tax cash ledgers. What can they do?</i> <i>In this case, the company will have to rectify wrongly reported liability using the edit facility. The company will reduce their Central Tax / State tax liability and add integrated tax liability. Further, they will have to pay integrated tax and update their cash ledger. They may seek for Central Tax / State tax cash refund in due course or use the same for offsetting future liabilities.</i>	<i>Company C was registered in the State of Haryana. While entering their outward supplies in FORM GSTR-3B, the company realized that they had inadvertently, shown inter-State supply as intra-State supply and submitted the return. The company paid their wrong liability and filed their return in order to avoid late fee and penalty? What can they do?</i> <i>Since, the return has already been filed, then the company will have to report the inter-State supply in their next month’s liability and adjust their wrongly paid intra-State liability in the subsequent months returns or claim refund of the same.</i>	
Change in FORM GSTR-1	Such taxpayers will have to file for amendments by filling Table 9 of the subsequent month’s / quarter’s FORM GSTR-1.			

Common Error - IV	Stage of Return Filing (GSTR - 3B)			
	Stage 1	Stage 2	Stage 3	Stage 4
	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step.	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed.
Input tax credit was under reported	Use 'Edit'' facility to add un-availed input tax credit. Input tax Credit will be added to the credit ledger and may be used for offsetting this month or subsequent month's liability.	No Action required in cash ledger	Input tax credit which was not reported may be availed while filing return for subsequent month(s).	
	Company D, while filing their FORM GSTR - 3B for the month of July, inadvertently, misreported Input tax credit of Rs. 1,00,00,000/- as Rs. 10,00,000/-. They had confirmed and submitted their return. What can they do? The company may use the "edit'' facility to add more Input tax credit to their submitted FORM GSTR-3B. Once, this is done, such credit will be reflected in their Electronic Credit ledger and may be utilized to offset liabilities for this month or for subsequent months.	No Action required in cash ledger	Company D, while filing their FORM GSTR - 3B for the month of July, inadvertently, misreported Input tax credit of Rs. 1,00,00,000/- as Rs. 10,00,000/-. They had filed their return and paid Rs. 90,00,000/- in cash. What can they do? Since, the return has already been filed, Company D may add such Input tax credit in their return for subsequent month(s).	
Change in FORM GSTR-1	No Action			

Common	Stage of Return Filing (GSTR - 3B)
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Error - V	Stage 1	Stage 2	Stage 3	Stage 4
	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step.	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step.	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed.
Input tax credit was over reported	Use "Edit" facility to rectify the over reported input tax credit	Additional cash, if required, may be deposited in the cash ledger by creating challan in FORM GST PMT-06	Pay (through cash) / Reverse such over reported input tax credit with interest in return of subsequent month (s).	
	<i>While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their eligible input tax credit, as Rs. 20,00,000/- instead of Rs. 10,00,000/-. What can they do?</i> <i>Since, the company has submitted details of their input tax credit but not used such credit for offsetting their liabilities, they can reduce their input tax credit by using the "edit" facility.</i>	<i>While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their eligible input tax credit, as Rs. 20,00,000/- instead of Rs. 10,00,000/-. What can they do?</i> <i>Since, the company has submitted details of their input tax credit but not used such credit for offsetting their liabilities, they can reduce their input tax credit by using the "edit" facility. Since, they have deposited Rs. 10,00,000/- only in their input tax credit ledger they may deposit additional Rs. 10,00,000/- in the cash ledger by creating challan in FORM GST PMT-06.</i>	<i>While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their eligible input tax credit, as Rs. 20,00,000/- instead of Rs. 10,00,000/-. Company E also utilized their additional input tax credit and filed their returns. What can they do?</i> <i>Since, the company had utilized ineligible credit to offset such liabilities, the company will have to pay (through cash) / Reverse such over reported utilized input tax credit with interest.</i>	
Change in FORM GSTR-1	No Action			

Common Error - VI	Stage of Return Filing (GSTR - 3B)			
	Stage 1	Stage 2	Stage 3	Stage 4
	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were confirmed and submitted and therefore no change can be done to the liability. No action was taken after this step	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step.	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step.	Return was filed.
Input Tax Credit of the wrong tax was taken	• “Edit” facility to be used to rectify such liability. • New Input tax credit will be added to the credit ledger. • Input tax credit reduced will be adjusted in the credit ledger without any additional liability	Additional cash, if required, may be deposited in the cash ledger by creating challan in FORM GST PMT-06	Pay(through cash) / Reverse any wrongly reported input tax credit in return of subsequent month(s). For under reported input tax credit, the same may be availed in return of subsequent month(s).	
	While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their Central Tax credit of Rs. 20,00,000/- as Integrated tax. What can they do? Use edit facility to claim correct central tax credit under the right head.	While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their Central Tax credit of Rs. 20,00,000/- as Integrated tax. What can they do? They can use “edit” facility to correct central tax credit under the right head. For offsetting any integrated tax liability, additional cash may be deposited in the cash ledger by creating challan in FORM GST PMT-06.	While filing their FORM GSTR 3B for the months of July, 2017, Company E inadvertently, reported their Central Tax credit of Rs. 20,00,000/- as Integrated tax credit. In order to avoid late fee and penalties, they paid Rs. 20,00,000/- Central Tax in cash and did not utilize their Integrated tax credit. What can they do? Since, the company has filed the returns and there is an unutilized Integrated tax credit of Rs. 20,00,000/- which was inadmissible to them, they will have to pay / reverse such credit in the return of subsequent month(s). Further, Central Tax credit of Rs. 20,00,000/- can be availed in return of subsequent month(s).	

Change in FORM GSTR-1	No Action			
Common Error - VII	Stage of Return Filing (GSTR - 3B)			
	Stage 1	Stage 2	Stage 3	Stage 4
	Confirmed Submission	Cash Ledger Updated	Offset Liability	Return Filed
	Return liabilities / Input tax credit availed were reported correctly and thereafter confirmed and submitted. Therefore no change is required to be done to the liability. No action was taken after this step.	Cash was added to the electronic cash ledger as per the return liability. No action was taken after this step	All liabilities were offset by debiting the cash and credit ledger. No action was taken after this step	Return was filed.
	No Action	Add cash under the right tax head and seek cash refund of the cash added under the wrong tax head.	No Action	
Cash ledger wrongly updated	No Action	While filing their FORM GSTR-3B return, Company F while generating payment challan added Rs. 5,00,000/- under the Central Tax head, while they wanted to deposit Rs. 5,00,000/- under the integrated tax head. What can they do? Since, they have already filed their challan, they will have to add Rs. 5,00,000/- in their integrated tax head and file their returns. Further, they may seek refund of Rs. 5,00,000/- from their cash ledger.	No Action	
Change in FORM GSTR-1	No Action			

F. No. 354/107/2017-TRU

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

North Block, New Delhi

04th January 2018

To,

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

Madam/Sir,

Subject: Clarifications regarding levy of GST on accommodation services, betting and gambling in casinos, horse racing, admission to cinema, homestays, printing, legal services etc. – Reg.

Representations were received from trade and industry for clarification on certain issues regarding levy of GST on supply of services.

2. In this context, it is stated that the following clarifications, *inter-alia*, were published as FAQ at <http://www.cbec.gov.in/resources/htdocs-cbec/gst/om-clarification.pdf>.

S.No.	Questions/ Clarifications sought	Clarifications
1	1. Will GST be charged on actual tariff or declared tariff for accommodation services? 2. What will be GST rate if cost goes up (more than declared tariff) owing to additional bed. 3. Where will the declared tariff be published? 4. Same room may have different tariff at different times depending on season or flow of tourists as per dynamic pricing. Which rate to be used then? 5. If tariff changes between booking and actual usage, which rate will be used? 6. GST at what rate would be levied if	1. Declared or published tariff is relevant only for determination of the tax rate slab. GST will be payable on the actual amount charged (transaction value). 2. GST rate would be determined according to declared tariff for the room, and GST at the rate so determined would be levied on the entire amount charged from the customer. For example, if the declared tariff is Rs. 7000 per unit per day but the amount charged from the customer on account of extra bed is Rs. 8000, GST shall be charged at 18% on Rs. 8000. 3. Tariff declared anywhere, say on the websites through which business is being procured or printed on tariff card

	an upgrade is provided to the customer at a lower rate?	or displayed at the reception will be the declared tariff. In case different tariff is declared at different places, highest of such declared tariffs shall be the declared tariff for the purpose of levy of GST. 4. In case different tariff is declared for different seasons or periods of the year, the tariff declared for the season in which the service of accommodation is provided shall apply. 5. Declared tariff at the time of supply would apply. 6. If declared tariff of the accommodation provided by way of upgrade is Rs 10000, but amount charged is Rs 7000, then GST would be levied @ 28% on Rs 7000/-.
2	Vide notification No. 11/2017-Central Tax (Rate) dated the 28th June 2017 entry 34, GST on the service of admission into casino under Heading 9996 (Recreational, cultural and sporting services) has been levied @ 28%. Since the Value of supply rule has not specified the method of determining taxable amount in casino, Casino Operators have been informed to collect 28% GST on gross amount collected as admission charge or entry fee. The method of levy adopted needs to be clarified.	Relevant part of entry 34 of the said CGST notification reads as under: <i>“Heading 9996 (Recreational, cultural and sporting services) - ...</i> <i>(iii) Services by way of admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, theme parks, water parks, joy rides, merry-go rounds, go-carting, casinos, race-course, ballet, any sporting event such as Indian Premier League and the like. - 14%</i> <i>(iv)...</i> <i>(v) Gambling. - 14 %”</i> As is evident from the notification, “entry to casinos” and “gambling” are two different services, and GST is leviable at 28% on both these services (14% CGST and 14% SGST) on the value determined as per section 15 of the CGST Act. Thus, GST @ 28% would apply on entry to casinos as well as on betting/ gambling services being provided by casinos on the transaction value of betting, i.e. the total bet value, in addition to GST levy on any other services being

		provided by the casinos (such as services by way of supply of food/ drinks etc. at the casinos). Betting, in pre-GST regime, was subjected to betting tax on full bet value.
3	The provision in rate schedule notification No. 11/2017-Central Tax (Rate) dated the 28th June 2017 does not clearly state the tax base to levy GST on horse racing. This may be clarified.	GST would be leviable on the entire bet value i.e. total of face value of any or all bets paid into the totalisator or placed with licensed book makers, as the case may be. Illustration: If entire bet value is Rs. 100, GST leviable will be Rs. 28/-.
4	- Whether for the purpose of entries at Sl. Nos. 34(ii) [admission to cinema] and 7(ii)(vi)(viii) [Accommodation in hotels, inns, etc.], of notification 11/2017-CT (Rate) dated 28th June 2017, price/ declared tariff includes the tax component or not? - Whether rent on rooms provided to in-patients is exempted? If liable to tax, please mention the entry of CGST Notification 11/2017-CT(Rate) - What will be the rate of tax for bakery items supplied where eating place is attached - manufacturer for the purpose of composition levy?	- Price/ declared tariff does not include taxes. - Room rent in hospitals is exempt. - Any service by way of serving of food or drinks including by a bakery qualifies under section 10 (1) (b) of CGST Act and hence GST rate of composition levy for the same would be 5%.
5	Whether homestays providing accommodation through an Electronic Commerce Operator, below threshold limit are exempt from taking registration?	Notification No. 17/2017-Central Tax (Rate), has been issued making ECOs liable for payment of GST in case of accommodation services provided in hotels, inns guest houses or other commercial places meant for residential or lodging purposes provided by a person having turnover below Rs. 20 lakhs (Rs. 10 lakhs in special category states) per annum and thus not required to take registration under section 22(1) of CGST Act. Such persons, even though they provide services through ECO, are not required to take registration in view of section 24(ix) of CGST Act, 2017.
6	To clarify whether supply in the situations listed below shall be treated as a supply of goods or supply of service: -	The supply of books shall be treated as supply of goods as long as the supplier owns the books and has the legal rights to

	1. The books are printed/ published/ sold on procuring copyright from the author or his legal heir. [e.g. White Tiger Procures copyright from Ruskin Bond] 2. The books are printed/ published/ sold against a specific brand name. [e.g. Manorama Year Book] 3. The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian edition (same language) of foreign books. [e.g. Penguin (India) Ltd. pays fees to Routledge (London)] The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian language edition (translated). [e.g. Ananda Publishers Ltd. pays fees to Penguin (NY)]	sell those books on his own account.
7	Whether legal services other than representational services provided by an individual advocate or a senior advocate to a business entity are liable for GST under reverse charge mechanism?	Yes. In case of legal services including representational services provided by an advocate including a senior advocate to a business entity, GST is required to be paid by the recipient of the service under reverse charge mechanism, i.e. the business entity.

3. The above clarifications are reiterated for the purpose of levy of GST on supply of services.

4. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours Faithfully,

Rachna

Technical Officer (TRU)

F. No. 354/03/2018
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

**Room No. 156, North Block,
New Delhi, 08th January 2018**

To,

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

Madam/Sir,

Subject: Clarifications regarding GST on College Hostel Mess Fees – reg.

Queries have been received seeking clarification regarding the taxability and rate of GST on services by a college hostel mess. The clarification is as given below:

2. The educational institutions have mess facility for providing food to their students and staff. Such facility is either run by the institution/ students themselves or is outsourced to a third person. Supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit [Serial No. 7(i) of notification No. 11/2017-CT (Rate) as amended vide notification No. 46/2017-CT (Rate) dated 14.11.2017 refers]. It is immaterial whether the service is provided by the educational institution itself or the institution outsources the activity to an outside contractor.
3. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

Yours Faithfully,

Rachna
Technical Officer (TRU)
Email: rachna.irs@gov.in

F. No. 354/03/2018
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

**Room No. 156, North Block,
New Delhi, 18th January 2018**

To,

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

Madam/Sir,

**Subject: Corrigendum to Circular No. 28/02/2018-GST dated 08th January 2018 issued
vide F.No. 354/03/2018 - reg.**

In Para 2 of the said circular,
for

“It is immaterial whether the service is provided by the educational institution itself or the institution outsources the activity to an outside contractor.”

read,

“2.1 If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition given under para 2(y) of notification No. 12/2017-Central Tax (Rate), then the same is exempt. [Sl. No. 66(a) of notification No. 12/2017-Central Tax (Rate) *refers*]

2.2 If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, then it is a supply of service at entry 7(i) of notification No. 11/2017-CT (Rate) [as amended vide notification No. 46/2017-CT (Rate) dated 14.11.2017] to the concerned educational institution and attracts GST of 5% provided that credit of input tax charged on goods and services used in supplying the service has not been taken, effective from 15.11.2017.”

Yours Faithfully,

Rachna
Technical Officer (TRU)
Email: rachna.irs@gov.in

F.No.354/1/2018-TRU)
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

North Block, New Delhi
Dated, 25 January, 2018

To

Principal Chief Commissioners/Principal Directors General,
Chief Commissioners/Directors General,
Principal Commissioners/Commissioners,
All under CBEC.

Madam/Sir,

Subject: Clarification regarding applicability of GST on Polybutylene feedstock and Liquefied Petroleum Gas retained for the manufacture of Poly Iso Butylene and Propylene or Di-butyl para Cresol – Regarding.

References have been received related to the applicability of GST on the Polybutylene feedstock and Liquefied Petroleum Gas retained for the manufacture of Poly Iso Butylene and Propylene or Di-butyl para Cresol.

2. In this context, manufacturers of Propylene or Di-butyl para Cresol and Poly Iso Butylene have stated that the principal raw materials for manufacture of such goods are Liquefied Petroleum Gas and Poly butylene feed stock respectively, which are supplied by oil refineries to them on a continuous basis through dedicated pipelines while a portion of the raw material is retained by these manufacturers, the remaining quantity is returned to the oil refineries. In this regard an issue has arisen as to whether in this transaction GST would be leviable on the whole quantity of the principal raw materials supplied by the oil refinery or on the net quantity retained by the manufacturers of Propylene or Di-butyl para Cresol and Poly Iso Butylene.

3. The GST Council in its 25th meeting held on 18.1.2018 discussed this issue and recommended for issuance of a clarification stating that in such transactions, GST will be payable by the refinery on the value of net quantity of polybutylene feedstock and liquefied petroleum gas retained for the manufacture of Poly Iso Butylene and Propylene or Di-butyl Para Cresol.

4. Accordingly, it is hereby clarified that, in the aforesaid cases, GST will be payable by the refinery only on the net quantity of Polybutylene feedstock and Liquefied Petroleum Gas retained by the manufacturer for the manufacture of Poly Iso Butylene and Propylene or Di-butyl para Cresol . Though, the refinery would be liable to pay GST on such returned quantity of Polybutylene feedstock and Liquefied Petroleum Gas, when the same is supplied by it to any other person.

5. This clarification is issued in the context of the Goods and Service Tax (GST) law only and past issues, if any, will be dealt in accordance with the law prevailing at the material time.

Yours faithfully,

(Mahipal Singh)
Technical Officer (TRU)
Email: mahipal.singh1980@gov.in

फाइल संख्या 354/1/2018-टीआरयू
भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
(कर अनुसंधान एकक)

नार्थ ब्लॉक, नई दिल्ली,
दिनांक 25 जनवरी, 2018

सेवा में,

प्रधान मुख्य आयुक्त/प्रधान महानिदेशक/
मुख्य आयुक्त/महानिदेशक
प्रधान आयुक्त/आयुक्त
सभी जो सीबीईसी के अंतर्गत आते हैं।

महोदया/महोदय,

विषय: पोलीब्यूटीलीन फीड स्टॉक और लिक्विफाइड पेट्रोलियम गैस, जिसे पोली आइसो ब्यूटीलीन और प्रोपीलीन या डाई-ब्यूटाइलपैरा क्रैसोल के उत्पादन के लिए रखा गया हो, पर जीएसटी के लागू होने के बारे में स्पष्टीकरण।

पोली आइसो ब्यूटीलीन और प्रोपीलीन या डाई-ब्यूटाइल पैरा क्रैसोल के उत्पादन के लिए रखे जाने वाले पोलीब्यूटीलीन फीड स्टॉक पर जीएसटी के लागू होने के बारे में कई संदर्भ प्राप्त हुए हैं।

2. इस संदर्भ में प्रोपीलीन या डाई-ब्यूटाइलपैरा क्रैसोल और पोली आइसो ब्यूटीलीन के उत्पादकों ने कहा है कि ऐसी वस्तुओं के उत्पादन में काम आने वाला मुख्य कच्चा माल क्रमशः लिक्विफाइड पेट्रोलियम गैस और पोली ब्यूटीलीन फीड स्टॉक होता है जो कि उनको ऑयल रिफाइनरीज से इसी के निमित्त पाइप लाइनों के माध्यम से सतत आधार पर उपलब्ध कराया जाता है। जब कि इस कच्चे माल का एक हिस्सा इन उत्पादकों द्वारा रख लिया जाता है बाकि मात्रा ऑयल रिफाइनरी को वापस कर दी जाती है। इस बारे में एक मुद्दा यह पैदा हुआ है कि क्या इस संव्यवहार में उस मुख्य कच्चे माल की संपूर्ण मात्रा पर जीएसटी लगाया जा सकता है जो कि उन्हें ऑयल रिफाइनरी द्वारा उपलब्ध कराई जाती है या इसे केवल उस निबल मात्रा पर लगाया जाएगा जिसे कि प्रोपीलीन या डाई ब्यूटाइलपैरा क्रैसोल और पोलीआइसो ब्यूटीलीन के उत्पादक अपने पास रख लेते हैं।

3. 18.01.2018 को हुई जीएसटी परिषद की 25वीं बैठक में इस मुद्दे पर विचार-विमर्श किया गया और यह स्पष्टीकरण देने के लिए सिफारिश की गई कि ऐसे संव्यवहार में जीएसटी का भुगतान रिफाइनरी के द्वारा पोलीब्यूटीलीन फीड स्टॉक और लिक्विफाइड पेट्रोलियम गैस की उस निबल मात्रा पर करना होगा जिसे कि पोलीआइसोब्यूटीलीन और प्रोपीलीन या डाई ब्यूटाइलपैराक्रैसोल के उत्पादक अपने पास रोक लेते हैं।

4. तदनुसार, एतद्वारा यह स्पष्ट किया जाता है कि जीएसटी को रिफाइनरी के द्वारा पोलीब्यूटीलीन फीड स्टॉक और लिक्विफाइड पेट्रोलियम गैस की उस निबल मात्रा पर भुगतान किया जाना होगा। जिसको कि पोलीआइसोब्यूटीलीन और प्रोपीलीन या डाई ब्यूटाइलपैराक्रैसोल के उत्पादक अपने पास रख लेते हैं। यद्यपि रिफाइनरी को पोलीब्यूटीलीन फीड स्टॉक और लिक्विफाइड पेट्रोलियम गैस की लोटाई गई मात्रा पर जीएसटी का भुगतान करना होगा। जब यह इसको अन्य व्यक्तियों को आपूर्ति करेगी।

5. इस स्पष्टीकरण को केवल माल एवं सेवाकर (जीएसटी) कानून के संदर्भ में जारी किया जा रहा है और इसके पहले के मुद्दों, यदि कोई हो, का समाधान तत्समय लागू कानून के तहत किया जाएगा।

भवदीय,

(महिपाल सिंह)

तकनीकी अधिकारी (टीआरयू)
ई-मेल. mahipal.singh1980@gov.in

F.No.354/1/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

North Block, New Delhi
Dated, 25 January, 2018

To

Principal Chief Commissioners/Principal Directors General,
Chief Commissioners/Directors General,
Principal Commissioners/Commissioners,
All under CBEC.

Madam/Sir,

Subject: Clarification on supplies made to the Indian Railways classifiable under any chapter, other than Chapter 86 – regarding.

Representations have been received that certain suppliers are making supplies to the railways of items classifiable under any chapter other than chapter 86, charging the GST rate of 5%.

2. The matter has been examined. Vide notification No. 1/2017 –Central Tax (Rate) dated 28th June, 2017, read with notification No. 5/2017-Central Tax (Rate) dated 28th June, 2017, goods classifiable under Chapter 86 are subjected to 5% GST rate with no refund of unutilised input tax credit (ITC). Goods classifiable in any other chapter attract the applicable GST, as specified under notification No. 1/2017 –Central Tax (Rate) dated 28th June, 2017 or notification No.2/2017-Central Tax (Rate) dated 28th June, 2017.

3. The GST Council during its 25th meeting held on 18th January, 2018, discussed this issue and recorded that a clarification regarding applicable GST rates on various supplies made to the Indian Railways may be issued.

4. Accordingly, it is hereby clarified that

- only the goods classified under Chapter 86, supplied to the railways attract 5% GST rate with no refund of unutilised input tax credit and
- other goods [falling in any other chapter], would attract the general applicable GST rates to such goods, under the aforesaid notifications, even if supplied to the railways.

Yours faithfully,

(Mahipal Singh)
Technical Officer (TRU)
Email: mahipal.singh1980@gov.in

फाइल संख्या 354/1/2018-टीआरयू
भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
(कर अनुसंधान एकक)

नार्थ ब्लॉक, नई दिल्ली,
दिनांक 25 जनवरी, 2018

सेवा में,

प्रधान मुख्य आयुक्त/प्रधान महानिदेशक/
मुख्य आयुक्त/महानिदेशक
प्रधान आयुक्त/आयुक्त
सभी जो सीबीईसी के अंतर्गत आते हैं।

महोदया/महोदय,

विषय: भारतीय रेलवे को की जाने वाली आपूर्ति, जिसका अध्याय 86 से भिन्न अन्य किसी भी अध्याय में वर्गीकरण हो सकता है, से संबंधित स्पष्टीकरण।

ऐसे अभ्यावेदन प्राप्त हुए हैं कि कुछ आपूर्तिकर्ता रेलवे को ऐसे मदों की आपूर्ति कर रहे हैं जिनका वर्गीकरण अध्याय 86 से भिन्न अन्य किसी अध्याय में होना चाहिए और उन पर 5 प्रतिशत की दर से जीएसटी लगाई जा रही है।

2. इस मामले की जांच-परख की गई। अधिसूचना संख्या 1/2017-केन्द्रीय कर (दर), दिनांक 28 जून, 2017 के अनुसार, अधिसूचना संख्या 5/2017-केन्द्रीय कर (दर), 28 जून, 2017 के साथ पठित, अध्याय 86 के अंतर्गत वर्गीकृत वस्तुओं पर 5 प्रतिशत की दर से जीएसटी लगती है और अनप्रयुक्त इनपुट टैक्स क्रेडिट (आईटीसी) को वापस नहीं किया जाता है। अन्य किसी अध्याय में आने वाली वस्तुओं पर अधिसूचना संख्या 1/2017-केन्द्रीय कर (दर), 28 जून, 2017 या अधिसूचना संख्या 2/2017-केन्द्रीय कर (दर) दिनांक 28 जून, 2017 के तहत यथाविनिर्दिष्ट दर से जीएसटी लगाई जाती है।

3. 18 जनवरी, 2018 को हुई जीएसटी परिषद की 25वीं बैठक में इस मुद्दे पर विचार-विमर्श किया गया और यह निर्णय लिया गया कि भारतीय रेलवे को की जाने वाली विभिन्न आपूर्तियों पर लगाई जाने वाली जीएसटी के दर के बारे में एक स्पष्टीकरण जारी किया जाए।

4. तदनुसार एतद्वारा यह स्पष्ट किया जाता है कि –

- रेलवे को आपूर्ति किए जाने वाली उन वस्तुओं पर जो कि अध्याय 86 के अंतर्गत आती हैं, 5 प्रतिशत की दर से जीएसटी लागेगी और अनप्रयुक्त इनपुट टैक्स क्रेडिट को वापस नहीं किया जाएगा और
- अन्य वस्तुओं [जो कि अन्य अध्याय में आती हैं], पर सामान्यतः उस दर से जीएसटी लागेगी जो कि उपर्युक्त अधिसूचनाओं में विनिर्दिष्ट हैं, चाहे इनकी आपूर्ति रेलवे को ही क्यों न की जा रही हो।

भवदीय,

(महिपाल सिंह)

तकनीकी अधिकारी (टीआरयू)

ई-मेल: mahipal.singh1980@gov.in

**F. No. 349/75/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, 9th February 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax / Commissioners of Central Tax (Audit)/ Principal Director
General of Goods and Services Tax Investigation/ Director General of Systems

Madam/Sir,

Subject: Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017-reg.

The Board, vide Circular No. 1/1/2017-GST dated 26th June, 2017, assigned proper officers for provisions relating to registration and composition levy under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) and the rules made thereunder. Further, vide Circular No. 3/3/2017 - GST dated 5th July, 2017, the proper officers for provisions other than registration and composition under the CGST Act were assigned. In the latter Circular, the Deputy or Assistant Commissioner of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 74 while the Superintendent of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 73 of the CGST Act.

2. It has now been decided by the Board that Superintendents of Central Tax shall also be empowered to issue show cause notices and orders under section 74 of the CGST Act. Accordingly, the following entry is hereby being added to the item at Sl. No. 4 of the Table on page number 3 of Circular No. 3/3/2017-GST dated 5th July, 2017, namely:-

Sl. No.	Designation of the officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
4.	Superintendent of Central Tax	viii(a). Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 74

3. Further, in light of sub-section (2) of section 5 of the CGST Act, whereby an officer of central tax may exercise the powers and discharge the duties conferred or imposed under the CGST Act on any other officer of central tax who is subordinate to him, the following entry is hereby removed from the Table on page number 2 of Circular No. 3/3/2017-GST dated 5th July, 2017:-

Sl. No.	Designation of the officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
3.	Deputy or Assistant Commissioner of Central Tax	vi. Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 74

4. In other words, all officers up to the rank of Additional/Joint Commissioner of Central Tax are assigned as the proper officer for issuance of show cause notices and orders under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of sections 73 and 74 of the CGST Act. Further, they are so assigned under the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”) as well, as per section 3 read with section 20 of the said Act.

5. Whereas, for optimal distribution of work relating to the issuance of show cause notices and orders under sections 73 and 74 of the CGST Act and also under the IGST Act, monetary limits for different levels of officers of central tax need to be prescribed. Therefore, in pursuance of clause (91) of section 2 of the CGST Act read with section 20 of the IGST Act, the Board hereby assigns the officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to issue of show cause notices and orders under sections 73 and 74 of the CGST Act and section 20 of the IGST Act (read with sections 73 and 74 of the CGST Act), up to the monetary limits as mentioned in columns (3), (4) and (5) respectively of the Table below:-

Table

Sl. No.	Officer of Central Tax	Monetary limit of the amount of central tax (including cess) not paid or short paid or erroneously refunded or input tax credit of central tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act	Monetary limit of the amount of integrated tax (including cess) not paid or short paid or erroneously refunded or input tax credit of integrated tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act made applicable to matters in relation to integrated tax vide section 20 of the IGST Act	Monetary limit of the amount of central tax and integrated tax (including cess) not paid or short paid or erroneously refunded or input tax credit of central tax and integrated tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act made applicable to integrated tax vide section 20 of the IGST Act
(1)	(2)	(3)	(4)	(5)
1.	Superintendent of Central Tax	Not exceeding Rupees 10 lakhs	Not exceeding Rupees 20 lakhs	Not exceeding Rupees 20 lakhs
2.	Deputy or Assistant Commissioner of Central Tax	Above Rupees 10 lakhs and not exceeding Rupees 1 crore	Above Rupees 20 lakhs and not exceeding Rupees 2 crores	Above Rupees 20 lakhs and not exceeding Rupees 2 crores
3.	Additional or Joint Commissioner of Central Tax	Above Rupees 1 crore without any limit	Above Rupees 2 crores without any limit	Above Rupees 2 crores without any limit

6. The central tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter referred to as “DGGSTI”) shall exercise the powers only to issue show cause notices. A show cause notice issued by them shall be adjudicated by the competent central tax officer of the Executive Commissionerate in whose jurisdiction the noticee is registered. In case there are more than one noticees mentioned in

the show cause notice having their principal places of business falling in multiple Commissionerates, the show cause notice shall be adjudicated by the competent central tax officer in whose jurisdiction, the principal place of business of the noticee from whom the highest demand of central tax and/or integrated tax (including cess) has been made falls.

7. Notwithstanding anything contained in para 6 above, a show cause notice issued by DGGSTI in which the principal places of business of the noticees fall in multiple Commissionerates and where the central tax and/or integrated tax (including cess) involved is more than Rs. 5 crores shall be adjudicated by an officer of the rank of Additional Director/Additional Commissioner (as assigned by the Board), who shall not be on the strength of DGGSTI and working there at the time of adjudication. Cases of similar nature may also be assigned to such an officer.

8. In case show cause notices have been issued on similar issues to a noticee(s) and made answerable to different levels of adjudicating authorities within a Commissionerate, such show cause notices should be adjudicated by the adjudicating authority competent to decide the case involving the highest amount of central tax and/or integrated tax (including cess).

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

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

(Upender Gupta)
Commissioner (GST)

F. No. 354/17/2018-TRU

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

**Room No. 146G, North Block,
New Delhi, 12th February 2018**

To,

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

Madam/Sir,

Subject: Clarifications regarding GST in respect of certain services

I am directed to issue clarification with regard to the following issues approved by the GST Council in its 25th meeting held on 18th January 2018:-

S. No.	Issue	Clarification
1.	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate).	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) <i>refers</i>]
2.	Is GST leviable on the fee/amount charged in the following situations/cases: – (1) A customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices.	Services by any court or Tribunal established under any law for the time being in force is neither a supply of goods nor services. Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article

	These fees are credited into State Customer Welfare Fund's bank account. (2) Consumer Disputes Redressal Commission office and its subordinate offices charge penalty in cash when it is required. (3) When a person files an appeal to Consumers Disputes Redressal Commission against order of District Forum, amount equal to 50% of total amount imposed by the District Forum or Rs 25000/- whichever is less, is required to be paid.	323B of the Constitution. However, they are clothed with the characteristics of a tribunal on account of the following: - (1) Statement of objects and reasons as mentioned in the Consumer Protection Bill state that one of its objects is to provide speedy and simple redressal to consumer disputes, for which a quasi-judicial machinery is sought to be set up at District, State and Central levels. (2) The President of the District/State/National Disputes Redressal Commissions is a person who has been or is qualified to be a District Judge, High Court Judge and Supreme Court Judge respectively. (3) These Commissions have been vested with the powers of a civil court under CPC for issuing summons, enforcing attendance of defendants/witnesses, reception of evidence, discovery/production of documents, examination of witnesses, etc. (4) Every proceeding in these Commissions is deemed to be judicial proceedings as per sections 193/228 of IPC. (5) The Commissions have been deemed to be a civil court under CrPC. (6) Appeals against District Commissions lie to State Commission while appeals against the State Commissions lie to the National Commission. Appeals against National Commission lie to the Supreme Court. In view of the aforesaid, it is hereby clarified that fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.
3.	Whether the services of elephant or camel ride, rickshaw ride and boat ride	Elephant/ camel joy rides cannot be classified as transportation services. These

	should be classified under heading 9964 (as passenger transport service) in which case, the rate of tax on such services will be 18% or under the heading 9996 (recreational, cultural and sporting services) treating them as joy rides, leviable to GST@ 28%?	services will attract GST @ 18% with threshold exemption being available to small service providers. [Sl. No 34(iii) of notification No. 11/2017-CT(Rate) dated 28.06.2017 as amended by notification No. 1/2018-CT(Rate) dated 25.01.2018 <i>refers</i>]
4.	What is the GST rate applicable on rental services of self-propelled access equipment (Boom Scissors/ Telehandlers)? The equipment is imported at GST rate of 28% and leased further in India where operator is supplied by the leasing company, diesel for working of machine is supplied by customer and transportation cost including loading and unloading is also paid by the customer.	Leasing or rental services, with or without operator, for any purpose are taxed at the same rate of GST as applicable on supply of like goods involving transfer of title in goods. Thus, the GST rate for the rental services in the given case shall be 28%, provided the said goods attract GST of 28%. IGST paid at the time of import of these goods would be available for discharging IGST on rental services. Thus, only the value added gets taxed. [Sl. No 17(vii) of notification No. 11/2017-CT(Rate) dated 28.6.17 as amended <i>refers</i>].
5.	Is GST leviable in following cases: (1) Hospitals hire senior doctors/ consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer-employee relationship. Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST? (2) Retention money: Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs. 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure	Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt. [Sl. No. 74 of notification No. 12/2017-CT(Rate) dated 28.06.2017 as amended <i>refers</i>]. (1) Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt. (2) Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India[para 2(zg) of notification No. 12/2017-CT(Rate)]. Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention

	etc. Will GST be applicable on such money retained by the hospitals? (3) Food supplied to the patients: Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.	money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt. (3) Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.
6.	Appropriate clarification may be issued regarding taxability of Cost Petroleum.	As per the Production Sharing Contract(PSC) between the Government and the oil exploration & production contractors, in case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called "Cost Petroleum". The relationship of the oil exploration and production contractors with the Government is not that of partners but that of licensor/lessor and licensee/lessee in terms of the Petroleum and Natural Gas Rules, 1959. Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of

		petroleum for themselves and not as a service to the Government. Para 8.1 of the Model Production Sharing Contract (MPSC) states that subject to the provisions of the PSC, the Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract. The oil exploration and production contractors conduct all petroleum operations at their sole risk, cost and expense. Hence, cost petroleum is not a consideration for service to GOI and thus not taxable per se. However, cost petroleum may be an indication of the value of mining or exploration services provided by operating member to the joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.
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2. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board. Hindi version would follow.

Yours Faithfully,

Harsh Singh
 Technical Officer (TRU)
 Email: harshsingh.irs@gov.in

F. No. 267/67/2017-CX.8
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

New Delhi, dated the 23rd Feb., 2018

To

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

The Principal Director Generals/ Director Generals (All).

Madam/Sir,

Sub: Directions under Section 168 of the CGST Act regarding non-transition of CENVAT credit under section 140 of CGST Act or non-utilization thereof in certain cases-reg.

In exercise of the powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “Act”), for the purposes of uniformity in implementation of the Act, the Central Board of Excise and Customs hereby directs the following.

2. Non-utilization of Disputed Credit carried forward

2.1 Where in relation to a certain CENVAT credit pertaining to which a show cause notice was issued under rule 14 of the CENVAT Credit Rules, 2004, which has been adjudicated and where in the last adjudication order or the last order-in-appeal, as it existed on 1st July, 2017, it was held that such CENVAT credit is not admissible, then such CENVAT credit (herein and after referred to as “disputed credit”), credited to the electronic credit ledger in terms of sub-section (1), (2), (3), (4), (5) (6) or (8) of section 140 of the Act, shall not be utilized by a registered taxable person to discharge his tax liability under this Act or under the IGST Act, 2017, till the order-in-original or the last order-in-appeal, as the case may be, holding that disputed credit as inadmissible is in existence.

2.2 During the period, when the last order-in-original or the last order-in-appeal, as the case may be, holding that disputed credit as inadmissible is in operation, if the said disputed credit is utilised, it shall be recovered from the tax payer, with interest and penalty as per the provisions of the Act.

3. Non-transition of Blocked Credit

3.1 In terms of clause (i) of sub-section (1) of section 140 of the Act, a registered person shall not take in his electronic credit ledger, amount of CENVAT credit as is carried forward in the return relating to the period ending with the day immediately preceding the appointed day which is not eligible under the Act in terms of sub-section (5) of section 17 (hereinafter referred to as 'blocked credit'), such as, telecommunication towers and pipelines laid outside the factory premises.

3.2 If the said blocked credit is carried forward and credited to the electronic credit ledger in contravention of section 140 of the Act, it shall not be utilized by a registered taxable person to discharge his tax liability under this Act or under the IGST Act, 2017, and shall be recovered from the tax payer with interest and penalty as per the provisions of the Act.

4. In all cases where the disputed credit as defined in terms of para 2.1 or blocked credit under para 3.1 is higher than Rs. ten lakhs, the taxpayers shall submit an undertaking to the jurisdictional officer of the Central Government that such credit shall not be utilized or has not been availed as transitional credit, as the case may be. In other cases of transitional credit of an amount lesser than Rs. ten lakhs, the directions as above shall apply but the need to submit the undertaking shall not apply.

5. Trade may be suitably informed and difficulty if any in implementation of the circular may be brought to the notice of the Board.

(ROHAN)

Under Secretary to the Govt. of India

F. No. 354/17/2018-TRU

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

**Room No. 146G, North Block,
New Delhi, 1st March 2018**

To,

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

Madam/Sir,

Subject: Clarifications regarding GST in respect of certain services

I am directed to issue clarification with regard to the following issues as approved by the Fitment Committee to the GST Council in its meeting held on 9th, 10th and 13th January 2018:-

S. No.	Issue	Clarification
1.	Whether activity of bus body building, is a supply of goods or services?	In the case of bus body building there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.
2.	Whether retreading of tyres is a supply of goods or services?	In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply, must be determined keeping in view the nature of the supply involved. Value may be one of the guiding factors in this determination, but not the sole factor. The primary question that should be asked is what is the essential nature of the composite supply and which element of the supply imparts that essential nature to

		the composite supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods (retreaded tyres under heading 4012 of the Customs Tariff attracting GST @ 28%)
3.	Whether Priority Sector Lending Certificates (PSLCs) are outside the purview of GST and therefore not taxable?	In Reserve Bank of India FAQ on PSLC, it has been mentioned that PSLC may be construed to be in the nature of goods, dealing in which has been notified as a permissible activity under section 6(1) of the Banking Regulation Act, 1949 vide Government of India notification dated 4th February, 2016. PSLC are not securities. PSLC are akin to freely tradeable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which attracted VAT. In GST there is no exemption to trading in PSLCs. Thus, PSLCs are taxable as goods at standard rate of 18% under the residuary S. No. 453 of Schedule III of notification No. 1/2017-Central Tax(Rate). GST payable on the certificates would be available as ITC to the bank buying the certificates.
4.	(1) Whether the activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act are exempt from GST? (2) Whether the guarantee provided by State Government to state owned companies against guarantee commission, is taxable under GST?	(1) Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under notification No. 12/2017- CT (R), Sl. No. 25. The other services such as, - i. Application fee for releasing connection of electricity; ii. Rental Charges against metering equipment; iii. Testing fee for meters/ transformers, capacitors etc.; iv. Labour charges from customers for shifting of meters or shifting of service lines;

		v. charges for duplicate bill; provided by DISCOMS to consumer are taxable. (2) The service provided by Central Government/State Government to any business entity including PSUs by way of guaranteeing the loans taken by them from financial institutions against consideration in any form including Guarantee Commission is taxable.
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2. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Harsh Singh
Technical Officer (TRU)
Email: harshsingh.irs@gov.in
Tel: 011-23095543

F. No. B-1/20/2016-TRU

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

**Room No. 146G, North Block,
New Delhi, 5th March 2018**

To,

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

Madam/Sir,

Subject: Joint Venture ---taxable services provided by the members of the Joint Venture (JV) to the JV and vice versa and inter se between the members of the JV-reg

I am directed to say that in the Service Tax regime, CBEC vide Circular No. 179/5/2014 – ST issued from F.No. 179/5/2014-ST dated 24 September 2014 had clarified that if cash calls are merely transaction in money, then they are excluded from the definition of service provided in Section 65B (44) of the Finance Act, 1994. Whether a cash call is merely a transaction in money and hence not in the nature of consideration for taxable service, would depend on the terms of the Joint Venture Agreement, which may vary from case to case. The Circular clarified that cash calls, sometimes, could be in the nature of advance payments made by members towards taxable services received from joint venture(JV); and that payments made out of cash calls pooled by a JV towards taxable services received from a member or a third party is in the nature of consideration and hence attracts Service Tax. The Circular further stated that JV being an unincorporated temporary association constituted for the limited purpose of carrying out a specified project within a time frame, a comprehensive examination of the various JV agreements (at times, there could be number of inter se agreements between members of the JV) holds the key to understanding of the taxation of transactions involving taxable services between the JV and its members or inter-se between the members of a JV. Therefore, officers in the field formations were advised to carefully examine the leviability of service tax with reference to the specific terms/clauses of each JV agreement.

2. In the Service Tax Law, service was defined as an activity carried out by a person for another for consideration [Section 65B(44) of the Finance Act 1994]. Explanation 3 to the said definition stated than an unincorporated association or a body of persons as the case may be, and a member thereof shall be treated as distinct persons.

3. GST is levied on intra-State and inter-State supply of goods and services. According to section 7 of CGST Act, 2017, the expression “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business, and includes activities specified in Schedule II to the CGST Act, 2017. The definition of “business” in section 2(17) of CGST Act states that “*business*” includes provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members. The term person is defined in section 2(84) of the CGST Act, 2017 to include an association of persons or a body of individuals, whether incorporated or not, in India or outside India. Further, Schedule II of CGST Act, 2017 enumerates activities which are to be treated as supply of goods or as supply of services. It states in para 7 that *supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration* shall be treated as supply of goods. A conjoint reading of the above provisions of the law implies that supply of services by an unincorporated association or body of persons (AOP) to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of services. The above entry in Schedule II is analogous to and draws strength from the provision in Article 366(29A)(e) of the Constitution according to which a tax on the sale or purchase of goods includes a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

4. Therefore, the law with regard to levy of GST on service supplied by member of an unincorporated joint venture (JV) to the JV or to other members of the JV, or by JV to the members, essentially remains the same as it was under service tax law. Thus, it is clarified that the clarification given vide Board Circular No. 179/5/2014 – ST dated 24.09.2014 *ibid* in the context of service tax is applicable for the purpose of levy of GST also. It is reiterated that the question whether cash calls are taxable or not will entirely depend on the facts and circumstances of each case. ‘Cash calls’ are raised by an operating member of the joint venture on other members in proportion to their participating interests in the joint venture (unincorporated) to meet the expenditure on the operations to be carried out as per the approved work programme and budget. Taxability of cash calls can be further explained by the following illustrations:

Illustration A: There are 4 members in the JV including the operating member and each one contributes Rs 100 as part of their share. A total amount of Rs 400 is collected. The operating member purchases machinery for Rs 400 for the JV to be used in oil production.

Illustration B: There are 4 members in the JV including the operating member and each one contributes Rs 100 as part of their share. A total amount of Rs 400 is collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the JV.

4.1 Illustration A will not be the subject matter of 'ST/GST' for the reason that the operating member is not carrying out an activity for another for consideration. In Illustration A, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.

4.2 On the other hand, in Illustration B, the operating member uses its own machinery and is therefore providing 'service' within the scope of supply of CGST Act, 2017. This is because in this scenario, the operating member is recovering the cost appropriated towards machinery and services from the other JV members in their participating interest ratio.

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

Yours Faithfully,

Harsh Singh
Technical Officer (TRU)
Email: harshsingh.irs@gov.in
Tel: 011-23095543

**F. No. 349/48/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 13th March, 2018

To,

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

The Principal Director Generals / Director Generals (All)

The Principal Chief Controller of Accounts, CBEC

Madam / sir,

Subject: Processing of refund applications for UIN entities

The GST Council, in its 23rd meeting held at Guwahati on 10th November 2017, has decided that the entities having Unique Identity Number (UIN) may be given centralized registration at the option of such entities. Further, it was also decided that the Central Government will be responsible for all administrative compliances in respect of such entities.

2. In order to clarify some of the issues and to ensure uniformity of implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) hereby clarifies the following issues:

3. **Status of registration for UINs:**

i. Entities having UINs are given a special status under the CGST Act as these are not covered under the definition of registered person. These entities have been granted UINs to enable them to claim refund of GST paid on inward supply of goods or services or both received by them. Therefore, if any such entity is making supply of goods or services or both in the course or furtherance of business then such entity will need to apply for GSTIN as per the provisions contained in the CGST Act read with the rules made thereunder.

ii. The process for applying for UIN has been outlined under Rule 17 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”). As stated in the said rule, any person covered under clause (a) of sub-section (9) of section 25 of

the CGST Act may submit an application electronically in **FORM GST REG-13** on the common portal. Therefore, Specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries shall apply for grant of UIN electronically by filling **FORM GST REG-13**.

iii. Due to delays in making available **FORM GST REG-13** on the common portal, an alternative mechanism has been developed. Entities covered under clause (a) of sub-section (9) of Section 25 of the CGST Act may approach the Protocol Division, Ministry of External Affairs in this regard, who will facilitate grant of UINs in coordination with the Central Board of Excise and Customs (CBEC) and GSTN.

iv. It is clarified that the facility of single UIN is optional and an entity may seek more than one UIN.

4. **Filing of return by UIN agencies:**

i. The procedure for filing returns by UIN entities is specified under sub-rule (1) of Rule 82 of the CGST Rules. The UIN entity is required to file details of inward supplies in **FORM GSTR-11**.

ii. It may be noted that return in **FORM GSTR-11** is required to be filed only for those tax periods for which refund is being claimed. In other words, if an UIN entity is not claiming refund for a particular period, it need not file return in **FORM GSTR-11** for that period.

5. **Applying for refund by UIN agencies:**

i. All the entities who have been issued UINs and are notified under Section 55 of the CGST Act will be eligible for refund of inward supply of goods or services in terms of notification No. 16/2017-Central Tax (Rate) dated 28th June 2017 as amended.

ii. It may be noted that the conditions specified under the said notification need to be complied with while applying for refund claims. Further, field officers are hereby instructed to ensure that all the certificates / undertaking etc. as stipulated in the said notification be duly checked while processing the refund claims.

iii. The procedure for filing a refund application has been outlined under Rule 95 of the CGST Rules which provides for filing of refund on quarterly basis in **FORM RFD-10** along with a statement of inward invoices in **FORM GSTR-11**. It is hereby clarified that **FORM GSTR-11** along with **FORM GST RFD-10** has to be filed separately for each of those quarters for which refund claim is being filed.

iv. Agencies which have been allotted UINs may visit User Manual / FAQ section on the common portal (www.gst.gov.in) for step by step instructions on how to file **FORM GSTR-11** and **FORM RFD-10**.

v. It is hereby clarified that all the entities claiming refund shall submit the duly filled in print out of **FORM RFD-10** to the jurisdictional Central Tax Commissionerate. All refund claims shall be processed and sanctioned by respective Central Tax offices. In order to facilitate processing of refund claims of UIN entities, a nodal officer has been designated in each State details of whom are given in **Annexure A**. Application for refund claim may be submitted before the designated Central Tax nodal officers in the State in which the UIN has been obtained.

vi. There may be cases where multiple UINs existed for the same entity but were later merged into one single UIN. In such cases, field formations are requested to process refund claims for earlier unmerged UINs also. Hence, the refund application will be made with the single UIN only but invoices of old UINs may be declared in the refund claim, which may be accepted and taken into account while processing the refund claim.

6. Passing of refund order and settlement of funds:

i. The facility of centralized UIN ensures that irrespective of the type of tax (CGST, SGST, IGST or Cess) and the State where such inward supply of goods or services have been procured, all refunds would be processed by Central authorities only. Therefore, field formations are advised that all refunds are to be processed on merits irrespective of where and which type of tax is paid on inward supply of goods or services or both by such entities.

ii. A monthly report as prescribed in **Annexure B** is required to be furnished to the Director General of Goods and Services Tax by the 30th of the succeeding month.

iii. Field officers shall send a copy of the order passed for such refunds to their State counterparts for information purposes only.

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

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

-sd-
(Upender Gupta)
Commissioner (GST)

<u>Annexure A</u>					
S.No.	State/UT	Nodal Commissionerate	Contact Address of the Commissionerate	Nodal Officer	Phone number and E-mail id of Nodal Officer
1	Andhra Pradesh	Guntur CGST	GST Bhavan, Kannavarithota, Guntur-522004	Mr. K. Mahipal Chandra, Assistant Commissioner	0863-2234713, mahipal.chandra@gov.in
2	Andaman & Nicobar Islands	Haldia	Assistant Commissioner of Central Tax. A & N Division, Kandahar Marg (VIP Road), Port Blair – 744103	Mr. T Inigo, Assistant Commissioner, Andaman & Nicobar	Inigo.timothy@gov.in
3	Arunachal Pradesh	Itanagar	CGST & CX Commissionerate, Itanagar-791110	Mr. N.K.Nandi, Assistant Commissioner	0360-2351213, nknandi2014@gmail.com
4	Assam	Dibrugarh	CGST & CX Commissionerate, Dibrugarh-786003	Mr. B.B.Baruah, Assistant Commissioner	0373-2314082 , Bbhusan.baruah@gov.in
5	Assam	Guwahati	CGST & CX Commissionerate, Guwahati-781005	Mr. Sanjeet Kumar, Assistant Commissioner	0361-2465197 , sanjeet.kumar@icegate.gov.in
6	Bihar	Patna-II	4th Floor, C.R.Building (Annexe), Bir Chand Patel Path, Patna-800001	Mr. Suhrit Mukherjee, Assistant Commissioner	0612-2504814, suhrit9933@gmail.com
7	Chandigarh	Chandigarh	Plot No. 19 Sector 17-C, C.R Building Chandigarh	Ms.Mamta Saini, Deputy Commissioner	0172-2704196, mamtasaini.india@gmail.com
8	Chhattisgarh	Raipur	Division-II, CGST Bhawan Civil Lines, Raipur	Mr. Sumit Kumar Agrawal, Assistant Commissioner	0771-2425636 sumitk.agrawal@gov.in
9	Dadra and Nagar Haveli	Daman	2nd Floor, Hani's Landmark, Vapi-Daman Road, Chala , Vapi, Gujarat	Mr. B.P. Singh, Additional Commissioner, Daman	0260-2460502, binay.singh@icegate.gov.in
10	Daman and Diu	Daman	2nd Floor, Hani's Landmark, Vapi-Daman Road, Chala , Vapi, Gujarat	Mr. B.P. Singh, Additional Commissioner, Daman	0260-2460502, binay.singh@icegate.gov.in
11	Goa	Goa	GST Bhavan, EDC Complex, Patto, Panaji-403001	Mr. S. K. Sinha, Additional Commissioner	0832-2437190, sanjay1.sinha@icegate.gov.in
12	Gujarat	Gandhinagar	O/o the Commissioner, CGST, Gandhinagar Custom House,Near All India Radio, Navrangpura, Ahmedabad-380009.	Dr. Amit Singal, Joint Commissioner	079-27540424, singalamit@rediffmail.com

13	Haryana	Gurugram	Plot No. 36-37, Sector-32, Gurugram	Mr. Raj Karan Aggarwal, Assistant Commissioner	0124-2380269, Aggarwalrajkaran@gmail.com
14	Himachal Pradesh	Shimla	Camp at Plot No. 19 Sector 17-C, C.R Building Chandigarh	Mr.Nikhil Kumar Singh, Assistant Commissioner	0172-2704196, nikhil.singh@icegate.gov.in
15	Jammu and Kashmir	Jammu	OB-32, Rail Head Complex, Jammu	Mr.Prakash Choudhary, Assistant Commissioner	0191-2475320, prakash.online1984@gmail.com
16	Jharkhand	Ranchi	5th Floor, C.R.Building, 5-A, Main Road, Ranchi-834001	Mr. Debabrata Chatterjee, Assistant Commissioner	0651-2330218, debabrata.chaterjee@gmail.com
17	Karnataka	Bengaluru (South)	Bengaluru South Commissionerate, C.R. Building, Queen's Road, Bengaluru-560001	Mrs. Gayathri Chandra Menon, Assistant Commissioner	080-25522370 sd07.gst@gov.in
18	Kerala	Kochi	Central Revenue Building, I.S. Press Road, Kochi-682018	Mr. Ashwin John George, Assistant Commissioner	0484-2533169 ashwinjohngeorge@gmail.com
19	Lakshadweep	Kochi	Central Revenue Building, I.S. Press Road, Kochi-682018	Mr. Ashwin John George, Assistant Commissioner	0484-2533169 ashwinjohngeorge@gmail.com
20	Madhya Pradesh	Bhopal	Division – I Bhopal, Jail Road Paryawas Bhawan, Bhopal	Mr. Piyush Thorat, Assistant Commissioner	0755-2761620, piyushthorat19@gmail.com
21	Maharashtra	Mumbai Central	4 th Floor, GST Bhavan, 115, M.K.Road, Opp Churchgate Station, Mumbai-400020	Ms. Manpreet Arya, Additional Commissioner	022-26210384, manpreetarya@yahoo.co.in
22	Manipur	Imphal	CGST &CX Commissionerate, Imphal-795001	Mr. R.K.Shurchandra Singh,Assistant Commissioner	0385-2460735, shurchandra.rk@gov.in
23	Meghalaya	Shillong	CGST &CX Commissionerate, Shillong-793001	Mr. Om Prakash Tiwary, Assistant Commissioner	0364-2506758, tiwary.op@gov.in
24	Mizoram	Aizawl	CGST & CX Commissionerate, Aizawl-796001	Mr. L.Ralte, Deputy Commissioner	0389-2346515 , lal.ralte@icegate.gov.in
25	Nagaland	Dimapur	CGST &CX Commissionerate, Dimapur-797112	Mr. Gopeswar Chandra Paul, Assistant Commissioner	0386-2351772, paul.gopeswar3@gmail.com
26	NCT of Delhi	Delhi (South)	2nd & 3rd Floor, EIL Annexe Building, Bhikaji Cama Place, New Delhi, Delhi 110066	Mr. Shikhar Pant, Assistant Commissioner	011-40785842 shikhar.pant@gov.in

27	Odisha	Bhubaneswar	C.R. Building, (GST Bhawan),Rajaswa Vihar, Bhubaneswar-751007	Mr. Sateesh Chandar, Joint Commissioner	0674-2589694 sateesh.chandar@nic.in
28	Puducherry	Puducherry	I, Goubert Avenue (Beach Road), Puducherry -605001.	Joint Commissioner	0413-2224062, 0413-2331244, pondycex.gst@gov.in
29	Punjab	Ludhiana	Central Excise House, F-Block, Rishi Nagar, Ludhiana.	Mr.Neeraj Soi, Deputy Commissioner	0161-2679452, soineeraj@gmail.com
30	Rajasthan	Jaipur	N.C.R. Building, Statue Circle, Jaipur	Mrs. Ruchita Vij, Additional Commissioner	0141-2385342 ruchitavij@gmail.com
31	Sikkim	Siliguri	Gangtok CGST Division, Indira Bypass Road, Sichey Near District Court, Gangtok – 737101	Mr. Puran Lama, Assistant Commissioner, Sikkim (Gangtok)	03592-284182, Gtk_div@rediffmail.com
32	Tamil Nadu	Chennai (North)	GST Bhawan, 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai – 600034	Additional Commissioner	044-28331177, 044-28331188, commr-cexchn1@nic.in
33	Telangana	Hyderabad	O/o the Principal Commissioner of Central Tax, Hyderabad GST Commissionerate, GST Bhawan, L B Stadium Road, Basheerbagh, Hyderabad - 500004.	Mr. P. Anand Kumar, Additional Commissioner	040-23240725, ak.pulapaka@gov.in
34	Tripura	Agartala	CGST &CX Commissionerate, Agartala-799001	Mr. S.K.Mazumdar, Assistant Commissioner	0381-2304099 , sanjoymaz85@gmail.com
35	Uttar Pradesh	Lucknow	7-A, Ashok Marg,Lucknow-226001	Mr. Avijit Pegu, Assistant Commissioner	0522-2233001, avijit.pegu@icegate.gov.in
36	Uttarakhand	Dehradun	Office of the Commissioner, Central Goods & Services Tax, E-Block, Nehru Colony, Dehradun	Mr. Sanjay Kumar Shukla	0135-2668668, sanjay2.shukla@icegate.gov.in
37	West Bengal	Kolkata (North)	180, Shanti Pally, Rajganda Main Road, Kolkata	Mr. Shobhit Sinha, Assistant Commissioner	033-24416813, Shobhitsinha.jsr@gov.in

Annexure B

Office of the Commissioner -----

Report for the month of -----

<u>Name of the State</u>	<u>Details of the Entity</u>		<u>Time Period</u>		<u>Name of the State for which refund has been sanctioned</u>	<u>Central Tax</u>	<u>State Tax / UT Tax</u>	<u>Integrated tax</u>	<u>Cess</u>
	<u>Name</u>	<u>UIN</u>	<u>From</u>	<u>To</u>					

**F. No.349/47/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing**

New Delhi, Dated the 15th March, 2018

To,

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

The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarifications on exports related refund issues- regarding

Board vide Circular No. 17/17/2017 – GST dated 15th November 2017 and Circular No. 24/24/2017 – GST dated 21st December 2017 clarified various issues in relation to processing of claims for refund. Since then, several representations have been received seeking further clarifications on issues relating to refund. In order to clarify these issues and with a view to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (CGST Act), hereby clarifies the issues raised as below:

2. **Non-availment of drawback:** The third proviso to sub-section (3) of section 54 of the CGST Act states that no refund of input tax credit shall be allowed in cases where the supplier of goods or services or both avails of drawback in respect of central tax.

2.1 This has been clarified in paragraph 8.0 of Circular No. 24/24/2017 – GST, dated 21st December 2017. In the said paragraph, reference to “section 54(3)(ii) of the CGST Act” is a typographical error and it should read as “section 54(3)(i) of the CGST Act”. It may be noted that in the said circular reference has been made only to central tax, integrated tax, State / Union territory tax and not to customs duty leviable under the Customs Act, 1962. Therefore, a supplier availing of drawback only with respect to basic customs duty shall be eligible for refund of unutilized input tax credit of central tax / State tax / Union territory tax / integrated tax / compensation cess under the said provision. It is further clarified that refund of eligible

credit on account of State tax shall be available even if the supplier of goods or services or both has availed of drawback in respect of central tax.

3. **Amendment through Table 9 of GSTR-1:** It has been reported that refund claims are not being processed on account of mis-matches between data contained in **FORM GSTR-1**, **FORM GSTR-3B** and shipping bills/bills of export. In this connection, it may be noted that the facility of filing of Table 9 in **FORM GSTR-1**, an amendment table which allows for amendments of invoices/ shipping bills details furnished in **FORM GSTR-1** for earlier tax period, is already available. If a taxpayer has committed an error while entering the details of an invoice / shipping bill / bill of export in Table 6A or Table 6B of **FORM GSTR-1**, he can rectify the same in Table 9 of **FORM GSTR-1**.

3.1. It is advised that while processing refund claims on account of zero rated supplies, information contained in Table 9 of **FORM GSTR-1** of the subsequent tax periods should be taken into cognizance, wherever applicable.

3.2. Field formations are also advised to refer to Circular No. 26/26/2017 – GST dated 29th December, 2017, wherein the procedure for rectification of errors made while filing the returns in **FORM GSTR-3B** has been provided. Therefore, in case of discrepancies between the data furnished by the taxpayer in **FORM GSTR-3B** and **FORM GSTR-1**, the officer shall refer to the said Circular and process the refund application accordingly.

4. **Exports without LUT:** Export of goods or services can be made without payment of integrated tax under the provisions of rule 96A of the Central Goods and Services Tax Rules, 2017 (the CGST Rules). Under the said provisions, an exporter is required to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has already been specified vide Circular No. 8/8/2017 –GST dated 4th October, 2017. It has been brought to the notice of the Board that in some cases, such zero rated supplies have been made before filing the LUT and refund claims for unutilized input tax credit have been filed.

4.1. In this regard, it is emphasised that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on *ex post facto* basis taking into account the facts and circumstances of each case.

5. **Exports after specified period:** Rule 96A (1) of the CGST Rules provides that any registered person may export goods or services without payment of integrated tax after furnishing a LUT / bond and that he would be liable to pay the tax due along with the interest as applicable within a period of fifteen days after the expiry of three months or such further

period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. The time period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

5.1 It has been reported that the exporters have been asked to pay integrated tax where the goods have been exported but not within three months from the date of the issue of the invoice for export. In this regard, it is emphasised that exports have been zero rated under the Integrated Goods and Services Tax Act, 2017 (IGST Act) and as long as goods have actually been exported even after a period of three months, payment of integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on *post facto* basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services.

6. **Deficiency memo:** It may be noted that if the application for refund is complete in terms of sub-rule (2), (3) and (4) of rule 89 of the CGST Rules, an acknowledgement in **FORM GST RFD-02** should be issued. Rule 90 (3) of the CGST Rules provides for communication in **FORM GST RFD-03** (deficiency memo) where deficiencies are noticed. The said sub-rule also provides that once the deficiency memo has been issued, the claimant is required to file a fresh refund application after the rectification of the deficiencies.

6.1. In this connection, a clarification has been sought whether with respect to a refund claim, deficiency memo can be issued more than once. In this regard rule 90 of the CGST Rules may be referred to, wherein it has been clearly stated that once an applicant has been communicated the deficiencies in respect of a particular application, the applicant shall furnish a fresh refund application after rectification of such deficiencies. It is therefore, clarified that there can be only one deficiency memo for one refund application and once such a memo has been issued, the applicant is required to file a fresh refund application, manually in **FORM GST RFD-01A**. This fresh application would be accompanied with the original ARN, debit entry number generated originally and a hard copy of the refund application filed online earlier. It is further clarified that once an application has been submitted afresh, pursuant to a deficiency memo, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original memo remain unrectified, either wholly or partly, or any other substantive deficiency is noticed subsequently.

7. **Self-declaration for non-prosecution:** It is learnt that some field formations are asking for a self-declaration with every refund claim to the effect that the claimant has not been prosecuted.

7.1. The facility of export under LUT is available to all exporters in terms of notification No. 37/2017- Central Tax dated 4th October, 2017, except to those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees. Para 2(d) of the Circular No. 8/8/2017-GST dated 4th October, 2017, mentions that a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. Persons who are not eligible to export under LUT are required to export under bond.

7.2. It is clarified that this requirement is already satisfied in case of exports under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT is not warranted.

8. **Refund of transitional credit:** Refund of unutilized input tax credit is allowed in two scenarios mentioned in sub-section (3) of section 54 of the CGST Act. These two scenarios are zero rated supplies made without payment of tax and inverted tax structure. In sub-rule (4) and (5) of rule 89 of the CGST Rules, the amount of refund under these scenarios is to be calculated using the formulae given in the said sub-rules. The formulae use the phrase 'Net ITC' and defines the same as "input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both". It is clarified that as the transitional credit pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of 'Net ITC'.

9. **Discrepancy between values of GST invoice and shipping bill/bill of export:** It has been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under

section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export.

9.1 During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund.

10. **Refund of taxes paid under existing laws:** Sub-sections (3), (4) and (5) of section 142 of the CGST Act provide that refunds of tax/duty paid under the existing law shall be disposed of in accordance with the provisions of the existing law. It is observed that certain taxpayers have applied for such refund claims in **FORM GST RFD-01A** also. In this regard, the field formations are advised to reject such applications and pass a rejection order in **FORM GST PMT-03** and communicate the same on the common portal in **FORM GST RFD-01B**. The procedures laid down under the existing laws viz., Central Excise Act, 1944 and Chapter V of the Finance Act, 1994 read with above referred sub-sections of section 142 of the CGST Act shall be followed while processing such refund claims.

10.1 Furthermore, it has been brought to the notice of the Board that the field formations are rejecting, withholding or re-crediting CENVAT credit, while processing claims of refund filed under the existing laws. In this regard, attention is invited to sub-section (3) of section 142 of the CGST Act which provides that the amount of refund arising out of such claims shall be refunded in cash. Further, the first proviso to the said sub-section provides that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse and therefore, will not be transitioned into GST. Furthermore, it should be ensured that no refund of the amount of CENVAT credit is granted in case the said amount has been transitioned under GST. The field formations are advised to process such refund applications accordingly.

11. **Filing frequency of Refunds:** Various representations have been made to the Board regarding the period for which refund applications can be filed. Section 2(107) of the CGST Act defines the term “tax period” as the period for which the return is required to be furnished. The terms ‘Net ITC’ and ‘turnover of zero rated supply of goods/services’ are used in the context of the relevant period in rule 89(4) of CGST Rules. The phrase ‘relevant period’ has been defined in the said sub-rule as ‘the period for which the claim has been filed’.

11.1 In many scenarios, exports may not have been made in that period in which the inputs or input services were received and input tax credit has been availed. Similarly, there may be cases where exports may have been made in a period but no input tax credit has been availed

in the said period. The above referred rule, taking into account such scenarios, defines relevant period in the context of the refund claim and does not link it to a tax period.

11.2 In this regard, it is hereby clarified that the exporter, at his option, may file refund claim for one calendar month / quarter or by clubbing successive calendar months / quarters. The calendar month(s) / quarter(s) for which refund claim has been filed, however, cannot spread across different financial years.

12. **BRC / FIRC for export of goods:** It is clarified that the realization of convertible foreign exchange is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realisation Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

13. **Supplies to Merchant Exporters:** Notification No. 40/2017 – Central Tax (Rate), dated 23rd October 2017 and notification No. 41/2017 – Integrated Tax (Rate) dated 23rd October 2017 provide for supplies for exports at a concessional rate of 0.05% and 0.1% respectively, subject to certain conditions specified in the said notifications.

13.1 It is clarified that the benefit of supplies at concessional rate is subject to certain conditions and the said benefit is optional. The option may or may not be availed by the supplier and / or the recipient and the goods may be procured at the normal applicable tax rate.

13.2 It is also clarified that the exporter will be eligible to take credit of the tax @ 0.05% / 0.1% paid by him. The supplier who supplies goods at the concessional rate is also eligible for refund on account of inverted tax structure as per the provisions of clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act. It may also be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of integrated tax. In this connection, notification No. 3/2018-Central Tax, dated 23.01.2018 may be referred.

14. **Requirement of invoices for processing of claims for refund:** It has been brought to the notice of the Board that for processing of refund claims, copies of invoices and other additional information are being insisted upon by many field formations.

14.1 It was envisaged that only the specified statements would be required for processing of refund claims because the details of outward supplies and inward supplies would be available on the common portal which would be matched. Most of the other information like shipping bills details etc. would also be available because of the linkage of the common portal with the Customs system. However, because of delays in operationalizing the requisite modules on the common portal, in many cases, suppliers' invoices on the basis of which the exporter is claiming refund may not be available on the system. For processing of refund claims of input tax credit, verifying the invoice details is quintessential. In a completely electronic environment, the information of the recipients' invoices would be dependent upon the suppliers' information, thus putting an in-built check-and-balance in the system. However, as the refund claims are being filed by the recipient in a semi-electronic environment and is completely based on the information provided by them, it is necessary that invoices are scrutinized.

14.2 A list of documents required for processing the various categories of refund claims on exports is provided in the Table below. Apart from the documents listed in the Table below, no other documents should be called for from the taxpayers, unless the same are not available with the officers electronically:

Table	
Type of Refund	Documents
Export of Services with payment of tax (Refund of IGST paid on export of services)	✓ Copy of FORM RFD-01A filed on common portal ✓ Copy of Statement 2 of FORM RFD-01A ✓ Invoices w.r.t. input, input services and capital goods ✓ BRC/FIRC for export of services ✓ Undertaking / Declaration in FORM RFD-01A
Export (goods or services) without payment of tax (Refund of accumulated ITC of IGST / CGST / SGST / UTGST / Cess)	✓ Copy of FORM RFD-01A filed on common portal ✓ Copy of Statement 3A of FORM RFD-01A generated on common portal ✓ Copy of Statement 3 of FORM RFD-01A ✓ Invoices w.r.t. input and input services ✓ BRC/FIRC for export of services ✓ Undertaking / Declaration in FORM RFD-01A

15. These instructions shall apply to exports made on or after 1st July, 2017. It is also advised that refunds may not be withheld due to minor procedural lapses or non-substantive errors or omission.

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

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

(Upender Gupta)
Commissioner (GST)

Circular No.38/12/2018

F. No. 20/16/03/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing

New Delhi, Dated the 26th March, 2018

To,

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

Madam/Sir,

Subject: Clarification on issues related to Job Work

Various representations have been received regarding the procedures to be followed for sending goods for job work and the related compliance requirements for the principal and the job worker. In view of the difficulties being faced by the taxpayers and 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 Central Goods and Services Tax Act, 2017, (hereinafter referred to as the “CGST Act”) hereby clarifies the various issues raised as below:

2. As per clause (68) of section 2 of the CGST Act, 2017, “job work” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly. The registered person on whose goods (inputs or capital goods) job work is performed is called the “Principal” for the purposes of section 143 of the CGST Act. The said section which encapsulates the provisions related to job work, provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work and, if required, from there subsequently to another job

worker and so on. Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools).

3. It may be noted that the responsibility of keeping proper accounts of the inputs and capital goods sent for job work lies with the principal. Moreover, if the time frame of one year / three years for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within one/three years of being sent out. It may be noted that the responsibility for sending the goods for job work as well as bringing them back or supplying them has been cast on the principal.

4. With respect to the above legal requirements, various issues have been raised on the following aspects:

- a. Scope / ambit of job work;
- b. Requirement of registration for a principal / job worker;
- c. Supply of goods by the principal from the job worker's place of business / premises;
- d. Movement of goods from the principal to the job worker and the documents and intimation required therefor;
- e. Liability to issue invoice, determination of place of supply and payment of GST; and
- f. Availability of input tax credit to the principal and the job worker.

5. **Scope/ambit of job work:** Doubts have been raised on the scope of job work and whether any inputs, other than the goods provided by the principal, can be used by the job worker for providing the services of job

work. It may be noted that the definition of job work, as contained in clause (68) of section 2 of the CGST Act, entails that the job work is a treatment or process undertaken by a person on goods belonging to another registered person. Thus, the job worker is expected to work on the goods sent by the principal and whether the activity is covered within the scope of job work or not would have to be determined on the basis of facts and circumstances of each case. Further, it is clarified that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.

6. Requirement of registration for the principal/ job worker: It is important to note that the provisions of section 143 of the CGST Act are applicable to a registered person. Thus, it is only a registered person who can send the goods for job work under the said provisions. It may also be noted that the registered person (principal) is not obligated to follow the said provisions. It is his choice whether or not to avail or not to avail of the benefit of these special provisions.

6.1 Doubts have been raised about the requirement of obtaining registration by job workers when they are located in the same State where the principal is located or when they are located in a State different from that of the principal. It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit (i.e. Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir) in case both the principal and the job worker are located in the same State. Where the principal and the job worker are located in different States, the requirement for registration flows from clause (i) of section 24 of the CGST Act which provides for compulsory registration of suppliers making any inter-State supply of services. However, exemption from registration has been granted in case the aggregate turnover of the inter-State supply of taxable services does not exceed Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir in a financial year vide notification No. 10/2017 – Integrated Tax dated 13.10.2017. Therefore, it is clarified that a job worker is required to obtain registration only in cases where his aggregate turnover, to be computed on all India

basis, in a financial year exceeds the threshold limit regardless of whether the principal and the job worker are located in the same State or in different States.

7. Supply of goods by the principal from job worker's place of business / premises:

Doubts have been raised as to whether the principal can supply goods directly from the job worker's place of business / premises to its end customer and if yes, whether the supply will be regarded as having been made by the principal or by the job worker. It is clarified that the supply of goods by the principal from the place of business / premises of the job worker will be regarded as supply by the principal and not by the job worker as specified in section 143(1)(a) of the CGST Act.

8. Movement of goods from the principal to the job worker and the documents and intimation required therefor:

8.1 Issues: Doubts have been raised about the documents required to be issued for sending the goods (i) by the principal to the job worker, (ii) from one job worker to another job worker; and (iii) from the job worker back to the principal.

8.2 Legal provisions: Section 143 of the CGST Act provides that the principal may send and/or bring back inputs/capital goods for job work without payment of tax, under intimation to the proper officer and subject to the prescribed conditions. Rule 45 of the CGST Rules provides that the inputs, semi-finished goods or capital goods being sent for job work (including that being sent from one job worker to another job worker for further job work or those being sent directly to a job worker) shall be sent under the cover of a challan issued by the principal, containing the details specified in rule 55 of the CGST Rules. This rule has been amended vide notification No. 14/2018-Central tax dated 23.03.2018 to provide that a job worker may endorse the challan issued by the principal. The principal is also required to file **FORM GST ITC-04** every quarter stating the said details. Further, as per the provisions contained in rule 138 of the CGST Rules, an e-way bill is required to be generated by every registered person who causes movement of goods of consignment value exceeding fifty

thousand rupees even in cases where such movement is for reasons other than for supply (e.g. in case of movement for job work). Further, the third proviso to rule 138(1) of the CGST Rules provides that the e-way bill shall be generated either by the principal or by the registered job worker irrespective of the value of the consignment, where goods are sent by a principal located in one State/Union territory to a job worker located in any other State/ Union territory.

8.3 As mentioned above, rule 45 of the CGST Rules provides that inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including in cases where such goods are sent directly to a job worker. Further, rule 55 of the CGST Rules provides that the consignor may issue a delivery challan containing the prescribed particulars in case of transportation of goods for job work. It may be noted that rule 45 provides for the issuance of a challan by the principal whereas rule 55 provides that the consignor may issue the delivery challan. It is also important to note that as per the provisions contained in rule 138 of the CGST Rules, an e-way bill is required to be generated by every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees even in cases where such movement is for reasons other than for supply (e.g. in case of movement for job work). The third proviso to rule 138(1) of the CGST Rules provides that the e-way bill shall be generated either by the principal or by the registered job worker irrespective of the value of the consignment, where goods are sent by a principal located in one State/Union territory to a job worker located in any other State/ Union territory. It may also be noted that as per *Explanation 1* to rule 138(3) of the CGST Rules, where the goods are supplied by an unregistered supplier to a registered recipient, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods. In other words, the e-way bill shall be generated by the principal, wherever required, in case the job worker is unregistered.

8.4 Clarification: On conjoint reading of the relevant legal provisions, the following is clarified with respect to the issuance of challan, furnishing of intimation and other documentary requirements in this regard:

(i) **Where goods are sent by principal to only one job worker:**

The principal shall prepare in triplicate, the challan in terms of rules 45 and 55 of the CGST Rules, for sending the goods to a job worker. Two copies of the challan may be sent to the job worker along with the goods. The job worker should send one copy of the said challan along with the goods, while returning them to the principal. The **FORM GST ITC-04** will serve as the intimation as envisaged under section 143 of the CGST Act, 2017.

(ii) **Where goods are sent from one job worker to another job**

worker: In such cases, the goods may move under the cover of a challan issued either by the principal or the job worker. In the alternative, the challan issued by the principal may be endorsed by the job worker sending the goods to another job worker, indicating therein the quantity and description of goods being sent. The same process may be repeated for subsequent movement of the goods to other job workers.

(iii) **Where the goods are returned to the principal by the job**

worker: The job worker should send one copy of the challan received by him from the principal while returning the goods to the principal after carrying out the job work.

(iv) **Where the goods are sent directly by the supplier to the job**

worker: In this case, the goods may move from the place of business of the supplier to the place of business/premises of the job worker with a copy of the invoice issued by the supplier in the name of the buyer (i.e. the principal) wherein the job worker's name and address should also be mentioned as the consignee, in terms of rule 46(o) of the CGST Rules. The buyer (i.e., the principal) shall issue the challan under rule 45 of the

CGST Rules and send the same to the job worker directly in terms of para (i) above. In case of import of goods by the principal which are then supplied directly from the customs station of import, the goods may move from the customs station of import to the place of business/premises of the job worker with a copy of the Bill of Entry and the principal shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly.

(v) **Where goods are returned in piecemeal by the job worker:**

In case the goods after carrying out the job work, are sent in piecemeal quantities by a job worker to another job worker or to the principal, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker.

(vi) **Submission of intimation:** Rule 45(3) of the CGST Rules provides that the principal is required to furnish the details of challans in respect of goods sent to a job worker or received from a job worker or sent from one job worker to another job worker during a quarter in **FORM GST ITC-04** by the 25th day of the month succeeding the quarter or within such period as may be extended by the Commissioner. It is clarified that it is the responsibility of the principal to include the details of all the challans relating to goods sent by him to one or more job worker or from one job worker to another and its return therefrom. The **FORM GST ITC-04** will serve as the intimation as envisaged under section 143 of the CGST Act.

9. Liability to issue invoice, determination of place of supply and payment of GST:

9.1 Issues: Doubts have been raised about the time, value and place of supply in the hands of principal or job worker as also about the issuance of invoices by the principal or job worker, as the case may be, with regard to the supply of goods from principal to the recipient from the job worker's place of business / premises and the supply of services by the job worker.

9.2 Legal provisions: As mentioned earlier, section 143 of the CGST Act provides that the inputs/capital goods may be sent for job work without payment of tax and unless they are brought back by the principal, or supplied from the place of business / premises of the job worker within a period of one / three years, as the case may be, it would be deemed that such inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) have been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out. Further, the job worker is liable to pay GST on the supply of job work services.

9.3 The provisions relating to time of supply are contained in sections 12 and 13 of the CGST Act and that for determining the value of supply are in section 15 of the CGST Act. The provisions relating to place of supply are contained in section 10 of the IGST Act, 2017. Further, the provisions relating to the issuance of an invoice are contained in section 31 of the CGST Act read with rule 46 of the CGST Rules.

9.4 On conjoint reading of all the provisions, the following is clarified with respect to the issuance of an invoice, time of supply and value of supply:

- (i) **Supply of job work services:** The job worker, as a supplier of services, is liable to pay GST if he is liable to be registered. He shall issue an invoice at the time of supply of the services as determined in terms of section 13 read with section 31 of the CGST Act. The value of services would be determined in terms of section 15 of the CGST Act and would include not only the service charges but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal. Doubts have been raised whether the value of moulds and dies, jigs and fixtures or tools which have been provided by the principal to the job worker and have been used by the latter for providing job work services would be included in the value of job work services. In this regard, attention is invited to section 15 of the CGST Act which lays down the principles for determining the value of any supply under GST. Importantly, clause (b) of sub-section (2) of section 15 of the CGST Act

provides that any amount that the supplier is liable to pay in relation to the supply but which has been incurred by the recipient will form part of the valuation for that particular supply, provided it has not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being.

- (ii) **Supply of goods by the principal from the place of business/ premises of job worker:** Section 143 of the CGST Act provides that the principal may supply, from the place of business / premises of a job worker, inputs after completion of job work or otherwise or capital goods (other than moulds and dies, jigs and fixtures or tools) within one year or three years respectively of their being sent out, on payment of tax within India, or with or without payment of tax for exports, as the case may be. This facility is available to the principal only if he declares the job worker's place of business / premises as his additional place of business or if the job worker is registered.

Since the supply is being made by the principal, it is clarified that the time, value and place of supply would have to be determined in the hands of the principal irrespective of the location of the job worker's place of business/premises. Further, the invoice would have to be issued by the principal. It is also clarified that in case of exports directly from the job worker's place of business/premises, the LUT or bond, as the case may be, shall be executed by the principal.

Illustration: The principal is located in State A, the job worker in State B and the recipient in State C. In case the supply is made

from the job worker's place of business / premises, the invoice will be issued by the supplier (principal) located in State A to the recipient located in State C. The said transaction will be an inter-State supply. In case the recipient is also located in State A, it will be an intra-State supply.

(iii) **Supply of waste and scrap generated during the job work:**

Sub - section (5) of Section 143 of the CGST Act provides that the waste and scrap generated during the job work may be supplied by the registered job worker directly from his place of business or by the principal in case the job worker is not registered. The principles enunciated in para (ii) above would apply *mutatis mutandis* in this case.

9.5 Violation of conditions laid down in section 143: As per the provisions contained in section 143 of the CGST Act, if the inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) are neither received back by the principal nor supplied from the job worker's place of business within the specified time period, the inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) would be deemed to have been supplied by the principal to the job worker on the day when such inputs or capital goods were sent out to the first job worker.

9.6 Thus, if the inputs or capital goods are neither returned nor supplied from the job worker's place of business / premises within the specified time period, the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year / three years has expired. The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax. If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST

Act read with the rules made thereunder. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being. Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

10. Availability of input tax credit to the principal and job worker:

Doubts have been raised regarding the availability of input tax credit (ITC) to the principal in respect of inputs / capital goods that are directly received by the job worker. Doubts have also been raised whether the job worker is eligible for ITC in respect of inputs, etc. used by him in supplying job work services. It is clarified that, in view of the provisions contained in clause (b) of sub-section (2) of section 16 of the CGST Act, the input tax credit would be available to the principal, irrespective of the fact whether the inputs or capital goods are received by the principal and then sent to the job worker for processing, etc. or whether they are directly received at the job worker's place of business/premises, without being brought to the premises of the principal. It is also clarified that the job worker is also eligible to avail ITC on inputs, etc. used by him in supplying the job work services if he is registered.

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

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

(Upender Gupta)
Commissioner (GST)

Circular No. 39/13/2018-GST

F. No. 267/7/2018-CX.8
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs

New Delhi, dated the 3rd April, 2018

To

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

The Principal Director Generals/ Director Generals (All).

Sub: Setting up of an IT Grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on GST Portal-reg.

Madam/Sir,

It has been decided to put in place an IT-Grievance Redressal Mechanism to address the difficulties faced by a section of taxpayers owing to technical glitches on the GST portal and the relief that needs to be given to them. The relief could be in the nature of allowing filing of any Form or Return prescribed in law or amending any Form or Return already filed. The details of the said grievance redressal mechanism are provided below:

2. Introduction

Where an IT related glitch has been identified as the reason for failure of a class of taxpayer in filing of a return or a form within the time limit prescribed in the law and there are collateral evidences available to establish that the taxpayer has made bonafide attempt to comply with the process of filing of form or return, GST Council has delegated powers to the IT Grievance Redressal Committee to approve and recommend to the GSTN the steps to be taken to redress the grievance and the procedure to be followed for implementation of the decision.

3. Scope

Problems which are proposed to be addressed through this mechanism would essentially be those which relate to Common Portal (GST Portal) and affect a large section of taxpayers.

Where the problem relates to individual taxpayer, due to localised issues such as non-availability of internet connectivity or failure of power supply, this mechanism shall not be available.

4. IT-Grievance Redressal Committee

Any issue which needs to be addressed through this mechanism shall be identified by GSTN and the method of resolution approved by the GST Implementation Committee (GIC) which shall act as the IT Grievance Redressal Committee. In GIC meetings convened to address IT issues or IT glitches, the CEO, GSTN and the DG (Systems), CBEC shall participate in these meetings as special invitees.

5. Nodal officers and identification of issues

5.1 GSTN, Central and State government would appoint nodal officers in requisite number to address the problem a taxpayer faces due to glitches, if any, in the Common Portal. This would be publicized adequately.

5.2 Taxpayers shall make an application to the field officers or the nodal officers where there was a demonstrable glitch on the Common Portal in relation to an identified issue, due to which the due process as envisaged in law could not be completed on the Common Portal.

5.3 Such an application shall enclose evidences as may be needed for an identified issue to establish bonafide attempt on the part of the taxpayer to comply with the due process of law.

5.4 These applications shall be collated by the nodal officer and forwarded to GSTN who would on receipt of application examine the same. GSTN shall after verifying its electronic records and the applications received, identify the issue involved where a large section of tax payers are affected. GSTN shall forward the same to the IT Grievance Redressal Committee with suggested solutions for resolution of the problem.

6. Suggested solutions

6.1 GST Council Secretariat shall obtain inputs of the Law Committee, where necessary, on the proposal of the GSTN and call meeting of GIC to examine the proposal and take decision thereon.

6.2 The committee shall examine and approve the suggested solution with such modifications as may be necessary.

6.3 IT-Grievance Redressal Committee may give directions as necessary to GSTN and field formations of the tax administrations for implementation of the decision.

7. Legal issues

7.1 Where an IT related glitch has been identified as the reason for failure of a taxpayer in filing of a return or form prescribed in the law, the consequential fine and penalty would also be required to be waived. GST Council has delegated the power to the IT Grievance Redressal Committee to recommend waiver of fine or penalty, in case of an emergency, to the Government in terms of section 128 of the CGST Act, 2017 under such mitigating circumstances as are identified by the committee. All such notifications waiving fine or penalty shall be placed before GST Council.

7.2 Where adequate time is available, the issue of waiver of fee and penalty shall be placed before the GST Council with recommendation of the IT-Grievance Redressal Committee.

8. Resolution of stuck TRAN-1s and filing of GSTR-3B

8.1 A large number of taxpayers could not complete the process of TRAN-1 filing either at the stage of original or revised filing as they could not digitally authenticate the TRAN-1s due to IT related glitches. As a result, a large number of such TRAN-1s are stuck in the system. GSTN shall identify such taxpayers who could not file TRAN-1 on the basis of electronic audit trail. It has been decided that all such taxpayers, who tried but were not able to complete TRAN-1 procedure (original or revised) of filing them **on or before 27.12.2017** due to IT-glitch, shall be provided the facility to complete TRAN-1 filing. It is clarified that the last date for filing of TRAN 1 is not being extended in general and only these identified taxpayers shall be allowed to complete the process of filing TRAN-1.

8.2 The taxpayer shall not be allowed to amend the amount of credit in TRAN-1 during this process vis-à-vis the amount of credit which was recorded by the taxpayer in the TRAN-1, which could not be filed. If needed, GSTN may request field formations of Centre and State to collect additional document/ data etc. or verify the same to identify taxpayers who should be allowed this procedure.

8.3 GSTN shall communicate directly with the taxpayers in this regard and submit a final report to GIC about the number of TRAN-1s filed and submitted through this process.

8.4 The taxpayers shall complete the process of filing of TRAN 1 stuck due to IT glitches, as discussed above, by 30th April 2018 and the process of completing filing of GSTR 3B which could not be filed for such TRAN 1 shall be completed by 31st May 2018.

9. The decisions of the Hon'ble High Courts of Allahabad, Bombay etc., where no case specific decision has been taken, may be implemented in-line with the procedure prescribed above, subject to fulfilment of the conditions prescribed therein. Where these conditions are not satisfied, Hon'ble Courts may be suitably informed and if needed review or appeal may be filed.

10. Trade may be suitably informed and difficulty if any in implementation of the circular may be brought to the notice of the Board.

(ROHAN)
(Deputy Commissioner)

F. No. 349/82/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
(GST Policy Wing)

New Delhi, April 6, 2018

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 on issues related to furnishing of Bond/Letter of Undertaking for
exports – Reg.**

Various communications have been received from the field formations and exporters that the LUTs being submitted online in **FORM GST RFD-11** on the common portal are not visible to the jurisdictional officers of Central Board of Indirect Taxes and Customs and of a few States. Therefore, a need was felt for a clarification regarding the acceptance of LUTs being submitted online in **FORM GST RFD-11**.

2. Accordingly, in partial modification of Circular No. 8/8/2017-GST dated 4th October, 2017, sub-paras (c), (d) and (e) of para 2 of the said Circular are hereby replaced by the following:

*“c) **Form for LUT:** The registered person (exporters) shall fill and submit **FORM GST RFD-11** on the common portal. An LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online.*

*d) **Documents for LUT:** No document needs to be physically submitted to the jurisdictional office for acceptance of LUT.*

*e) **Acceptance of LUT/bond:** An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish an LUT in place of bond as per Notification No. 37/2017-Central Tax, then the exporter’s LUT will be liable for*

rejection. In case of rejection, the LUT shall be deemed to have been rejected ab initio.”

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
4. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

CBEC-20/16/03/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 13th April, 2018

To,

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

Madam/Sir,

Subject: Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances –Reg.

Sub-section (1) of section 68 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) stipulates that the person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount shall carry with him the documents and devices prescribed in this behalf. Sub-section (2) of the said section states that the details of documents required to be carried by the person in charge of the conveyance shall be validated in such manner as may be prescribed. Sub-section (3) of the said section provides that where any conveyance referred to in sub-section (1) of the said section is intercepted by the proper officer at any place, he may require the person in charge of the conveyance to produce the documents for verification, and the said person shall be liable to produce the documents and also allow the inspection of goods.

1.1 Rules 138 to 138D of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”) lay down, in detail, the provisions relating to e-way bills. As per the said provisions, in case of transportation of goods by road, an e-way bill is required to be generated before the commencement of movement of the consignment. Rule 138A of the CGST rules prescribes that the person in charge of a conveyance shall carry the invoice or bill of supply or delivery challan, as the case may be; and in case of transportation of goods by road, he shall also carry a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

1.2 Section 129 of the CGST Act provides for detention, seizure and release of goods and conveyances in transit while section 130 of the CGST Act provides for the confiscation of goods or conveyances and imposition of penalty.

2. In this regard, various references have been received regarding the procedure to be followed in case of interception of conveyances for inspection of goods in movement and detention, seizure and release and confiscation of such goods and conveyances. In order to ensure uniformity in the implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the CGST Act, hereby issues the following instructions:

- (a) The jurisdictional Commissioner or an officer authorised by him for this purpose shall, by an order, designate an officer/officers as the proper officer/officers to conduct interception and inspection of conveyances and goods in the jurisdictional area specified in such order.
- (b) The proper officer, empowered to intercept and inspect a conveyance, may intercept any conveyance for verification of documents and/or inspection of goods. On being intercepted, the person in charge of the conveyance shall produce the documents related to the goods and the conveyance. The proper officer shall verify such documents and where, prima facie, no discrepancies are found, the conveyance shall be allowed to move further. An e-way bill number may be available with the person in charge of the conveyance or in the form of a printout, sms or it may be written on an invoice. All these forms of having an e-way bill are valid. Wherever a facility exists to verify the e-way bill electronically, the same shall be so verified, either by logging on to <http://mis.ewaybillgst.gov.in> or the Mobile App or through SMS by sending **EWBVER <EWB_NO>** to the mobile number **77382 99899** (For e.g. EWBVER 120100231897).
- (c) For the purposes of verification of the e-way bill, interception and inspection of the conveyance and/or goods, the proper officer under rule 138B of the CGST Rules shall be the officer who has been assigned the functions under sub-section (3) of section 68 of the CGST Act vide Circular No. 3/3/2017 – GST, dated 05.07.2017.
- (d) Where the person in charge of the conveyance fails to produce any prescribed document or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in **FORM GST MOV-01**. In addition, the proper officer shall issue an order for physical verification/inspection of the conveyance, goods and documents in **FORM GST MOV-02**, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods. The proper officer shall, within twenty four hours of the aforementioned issuance of **FORM GST MOV-02**, prepare a report in **Part A** of **FORM GST EWB-03** and upload the same on the common portal.
- (e) Within a period of three working days from the date of issue of the order in **FORM GST MOV-02**, the proper officer shall conclude the inspection proceedings, either by himself or through any other proper officer authorised in this behalf. Where circumstances warrant such time to be extended, he shall obtain a written permission in **FORM GST MOV-03** from the Commissioner or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.

- (f) On completion of the physical verification/inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in **FORM GST MOV-04** and serve a copy of the said report to the person in charge of the goods and conveyance. The proper officer shall also record, on the common portal, the final report of the inspection in **Part B** of **FORM GST EWB-03** within three days of such physical verification/inspection.
- (g) Where no discrepancies are found after the inspection of the goods and conveyance, the proper officer shall issue forthwith a release order in **FORM GST MOV-05** and allow the conveyance to move further. Where the proper officer is of the opinion that the goods and conveyance need to be detained under section 129 of the CGST Act, he shall issue an order of detention in **FORM GST MOV-06** and a notice in **FORM GST MOV-07** in accordance with the provisions of sub-section (3) of section 129 of the CGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance.
- (h) Where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under clause (a) of sub-section (1) of section 129 of the CGST Act, or where the owner of the goods does not come forward to make the payment of tax and penalty as applicable under clause (b) of sub-section (1) of the said section, the proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the CGST Act and the CGST Rules, release the goods and conveyance by an order in **FORM GST MOV-05**. Further, the order in **FORM GST MOV-09** shall be uploaded on the common portal and the demand accruing from the proceedings shall be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.
- (i) Where the owner of the goods, or the person authorized by him, or any person other than the owner of the goods comes forward to get the goods and the conveyance released by furnishing a security under clause (c) of sub-section (1) of section 129 of the CGST Act, the goods and the conveyance shall be released, by an order in **FORM GST MOV-05**, after obtaining a bond in **FORM GST MOV-08** along with a security in the form of bank guarantee equal to the amount payable under clause (a) or clause (b) of sub-section (1) of section 129 of the CGST Act. The finalisation of the proceedings under section 129 of the CGST Act shall be taken up on priority by the officer concerned and the security provided may be adjusted against the demand arising from such proceedings.
- (j) Where any objections are filed against the proposed amount of tax and penalty payable, the proper officer shall consider such objections and thereafter, pass a speaking order in **FORM GST MOV-09**, quantifying the tax and penalty payable. On payment of such tax and penalty, the goods and conveyance shall be released forthwith by an order in **FORM GST MOV-05**. The order in **FORM GST MOV-09** shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the

electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

- (k) In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in **FORM GST MOV-06**, action under section 130 of the CGST Act shall be initiated by serving a notice in **FORM GST MOV-10**, proposing confiscation of the goods and conveyance and imposition of penalty.
- (l) Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the CGST Act by issuing a notice proposing to confiscate the goods and conveyance in **FORM GST MOV-10**. In the said notice, the quantum of tax and penalty leviable under section 130 of the CGST Act read with section 122 of the CGST Act, and the fine in lieu of confiscation leviable under sub-section (2) of section 130 of the CGST Act shall be specified. Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to sub-section (2) of section 130 of the CGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance.
- (m) No order for confiscation of goods or conveyance, or for imposition of penalty, shall be issued without giving the person an opportunity of being heard.
- (n) An order of confiscation of goods shall be passed in **FORM GST MOV-11**, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released. The order in **FORM GST MOV-11** shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. Once an order of confiscation of goods is passed in **FORM GST MOV-11**, the order in **FORM GST MOV-09** passed earlier with respect to the said goods shall be withdrawn.
- (o) An order of confiscation of conveyance shall be passed in **FORM GST MOV-11**, after taking into consideration the objections filed by the person in charge of the conveyance and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such conveyance shall stand transferred to the Central Government. In the order passed above, a suitable time not exceeding three months shall be offered to make the payment of penalty and fines imposed in lieu of confiscation and get the conveyance released. The order in **FORM GST MOV-11** shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

- (p) The order referred to in clauses (n) and (o) above may be passed as a common order in the said **FORM GST MOV-11**.
 - (q) In case neither the owner of the goods nor any person other than the owner of the goods comes forward to make the payment of tax, penalty and fine imposed and get the goods or conveyance released within the time specified in **FORM GST MOV-11**, the proper officer shall auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the Central Government.
 - (r) Suitable modifications in the time allowed for the service of notice or order for auction or disposal shall be done in case of perishable and/or hazardous goods.
 - (s) Whenever an order or proceedings under the CGST Act is passed by the proper officer, a corresponding order or proceedings shall be passed by him under the respective State or Union Territory GST Act and if applicable, under the Goods and Services Tax (Compensations to States) Act, 2017. Further, sub-sections (3) and (4) of section 79 of the CGST Act/respective State GST Acts may be referred to in case of recovery of arrears of central tax/State tax/Union territory tax.
 - (t) The procedure narrated above shall be applicable *mutatis mutandis* for an order or proceeding under the IGST Act, 2017.
 - (u) Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available in case of an unregistered person, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.
 - (v) A summary of every order in **FORM GST MOV-09** and **FORM GST MOV-11** shall be uploaded electronically in **FORM GST-DRC-07** on the common portal.
3. The format of **FORMS GST MOV-01** to **GST MOV-11** are annexed to this Circular.
4. It is requested that suitable standing orders and trade notices may be issued to publicise the contents of this Circular.
5. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Board at an early date. Hindi version will follow.

(Upender Gupta)
Commissioner (GST)

GOVERNMENT OF INDIA

FORM GST MOV-01

**STATEMENT OF THE OWNER / DRIVER/ PERSON IN CHARGE
OF THE GOODS AND CONVEYANCE**

Statement of Sri _____ S/o _____ age _____ years, residing at _____ owner / driver / person- in- charge of the goods and conveyance bearing No. _____ (Vehicle Number) made before the _____ (Designation of the proper officer) on DD/MM/YYYY at _____ AM/PM at _____ (place).

Today, you have intercepted the above mentioned conveyance and after disclosing your identity, you have requested me to produce my credentials and the documents relating to the goods in movement for your verification.

In this regard, I hereby declare the following.

1. : Personal Details						
NAME						
FATHER'S NAME						
AGE:	Yrs	DL NO:		RTO		
Conveyance Registration No.			Engine No.		Chassis No.	
Proof of Identity						
ADDRESS						
Phone:				Email, If any		
2.Details of the transporter:						
NAME						
ADDRESS						
Phone:				Email		
3	I am the person-in-charge of the goods conveyance number				/	/
4	I am transporting the goods from				To	
5	I have	a) not produced any documents relating to the goods under transportation				
b) produced the documents, recorded in the Annexure, relating to the goods under transportation, which I have duly certified and signed as correct.						

I hereby further declare that, except the documents mentioned in the Annexure to this statement **which have been** tendered to you, there are no other documents with me or in the conveyance relating to the goods in movement.

The facts recorded in this statement are as per the submissions made by me and the contents of the statement were explained to me once again in the _____ (language) which is known to me and I declare that the information furnished in this statement is true and correct and I have retained a copy of this statement.

“Before me”

(Owner/Driver/Person in charge)

Signature
Designation

ANNEXURE TO THE DEPONENT STATEMENT IN FORM GST MOV-01

PARTICULARS OF GOODS UNDER MOVEMENT- AS PER DOCUMENTS TENDERED									
S L. N O.	L R N O	LR DATE	INVOIC E/ BOS/DC NO	INVOIC E/BOS/D C DATE	CONSI GNOR	CONSIG NEE	COMMODI TY	VALU E	EWB BILL NO, IF ANY
1	2	3	4	5	6	7	8	9	10

“Before me”

(Owner/Driver/Person in charge)

Signature
Designation

GOVERNMENT OF INDIA

FORM GST MOV-02

**ORDER FOR PHYSICAL VERIFICATION / INSPECTION OF THE
CONVEYANCE, GOODS AND DOCUMENTS**

The goods conveyance bearing No. / / / carrying _____ goods was intercepted by the undersigned _____ (Designation of the officer), on / / at AM/PM at _____ (Place). The owner/driver/person-in-charge of the goods conveyance has:

1. failed to tender any document for the goods in movement, or
2. tendered the documents mentioned in the Annexure to **FORM GST MOV-01** for verification.

Upon verification of the documents tendered, the undersigned is of the opinion that the inspection of the goods under movement is required to be done in accordance with the provisions of sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with State/UT Goods and Services Tax Act, 2017 or under section 20 of the Integrated Goods and Services Tax Act, 2017 for the following reasons.

	The owner / driver / person-in charge of the conveyance has not tendered any documents for the goods in movement
	<i>Prima facie</i> the documents tendered are found to be defective
	The genuineness of the goods in transit (its quantity etc) and/or tendered documents requires further verification
	E-Way bill not tendered for the goods in movement
	Others (Specify)

Hence, you are hereby directed,-

- (1) to station the conveyance carrying goods at _____ (place) at your own risk and responsibility,
- (2) to allow and assist in physical verification and inspection of the goods in movement and related documents,
- (3) not to move the goods and conveyance from the place at which it is stationed until further orders and not to part with the goods in question.

Proper officer

To,
Sri.

Owner/Driver/Person-in-charge

Conveyance No: / / /

GOVERNMENT OF INDIA

FORM GST MOV-03

**ORDER OF EXTENTION OF TIME FOR INSPECTION BEYONF THREE
WORKING DAYS**

Order No.

The conveyance bearing No. _____ was intercepted by _____ (Designation of the officer) on _____ (date & time) at _____ (Place) and the same was directed to be stationed at _____ (place) for inspection by serving an Order in **FORM GST MOV-02** on the person in charge of the conveyance.

Now, the proper officer has requested for extension of time for conducting the inspection of the goods and conveyance for the following reasons:

The request of the proper officer has been examined and the same is found to be reasonable. The time period for conduct of inspection is hereby extended for a further period of _____ days.

The proper officer is hereby directed to serve a copy of this order on the person in charge of the conveyance.

JOINT/ADDL. COMMISSIONER

Place:

Date:

GOVERNMENT OF INDIA

FORM GST MOV-04

PHYSICAL VERIFICATION REPORT

Ref: FORM GST MOV-02 No._____ Dated

The physical verification of the goods conveyance bearing No._____ has been conducted in the presence of Shri_____ owner / person in charge of the goods vehicle. The details of the physical verification are as under:-

PHYSICAL VERIFICATION REPORT							
Date of Physical Verification							
Goods Conveyance number							
Name of the Transporter							
Sl. No	Transport Document/ LR No. & Date	Tendered Invoice / Documents No. & Date	Description of goods as per invoice including HSN code	Description of goods in the conveyance	Quantity as per invoice	Quantity as per physical verification	Diff.
1							
	Date:	Date:					
2							
	Date:	Date:					

I hereby declare that the physical verification of the goods and conveyance mentioned above has been conducted in my presence and I accept that the contents recorded in this report are true and correct.

Signature of the Owner /
Person in charge

Signature
Designation of the Proper Officer

ACKNOWLEDGEMENT :

I hereby duly declare that I have received a copy of the above report of physical verification.

Signature of the Owner /
Person in charge

GOVERNMENT OF INDIA

FORM GST MOV-05

RELEASE ORDER

Ref: FORM GST MOV-02 NO._____ **Dated**

1. The goods conveyance bearing No._____ carrying goods was inspected by me (name and designation) on_____ and on inspection, no discrepancy was noticed either in the documents or in the physical verification of goods.

or

2. The goods conveyance bearing No._____ carrying goods was inspected by me (name and designation) on _____ and after inspection, an order of detention was issued in **FORM GST MOV-06** on _____ and a notice in **FORM GST MOV-07** was served on the person in charge of the conveyance on _____. The owner or person in charge of the conveyance has-

- a. come forward and made the payment of tax and penalty as proposed and proceedings is drawn in this regard.
- b. made the payment of tax and penalty as demanded in the order in **FORM GST MOV-09**.
- c. come forward and furnished a bond in **FORM GST MOV-08** along with the bank guarantee for the amount equivalent to the tax and penalty proposed.

or

3. The goods conveyance bearing No._____ carrying goods was inspected by me (name and designation) on _____ and after inspection and following the due process, an order of confiscation of goods and conveyance was issued in **FORM GST MOV-11** and served on the owner/person in charge of the conveyance on _____. The owner/person-in-charge has come forward and made the payment of tax, penalty, fine in lieu of confiscation of goods and conveyance.

In view of the above, the goods and conveyance are hereby released on _____ at _____ AM/PM in good condition.

Signature

Designation of the Proper Officer,

ACKNOWLEDGEMENT :

I hereby duly declare that I have received a copy of the above order.

Signature of the Owner /
Person-in-charge

* Strike through whichever is not applicable

GOVERNMENT OF INDIA
FORM GST MOV-06

ORDER OF DETENTION UNDER SECTION 129 (1) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND THE STATE/UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017 / UNDER SECTION 20 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

The goods conveyance bearing No. _____ was intercepted and inspected by the undersigned on _____ at _____ (place and time) AM/PM. At the time of interception, the owner/ driver/ person in charge of the goods/ conveyance is Shri _____

	the owner/ driver/ person in charge of the goods conveyance Shri _____ has not tendered any documents for the goods in movement
	<i>Prima facie</i> , the documents tendered are found to be defective
	The genuineness of the goods in transit (its quantity etc) and/or tendered documents requires further verification
	E-Way bill not tendered for the goods in movement
	Others (Specify)

For the above said reasons, an order for physical verification / inspection of the conveyance, goods and documents was issued in **FORM GST MOV-02** dated _____ and served on the owner/driver/person in charge of the conveyance. A physical verification and inspection of goods in movement was conducted on _____ by _____ (name and designation) in the presence of the owner/driver/person in charge of the conveyance Shri _____ and a report was drawn in **FORM GST MOV-04**. The following discrepancies were noticed.

Discrepancies noticed after physical verification of goods and conveyance	
	Mismatch between the goods in movement and documents tendered, the details of which are as under- a) ----- b) ----- c) -----
	Mismatch between E-Way bill and goods in movement, the details of which are as under- a) ----- b) ----- c) -----
	Goods not covered by valid documents, and the details are as under- a) -----

	b) ----- c) -----
	Others (Specify) a) ----- b) ----- c) -----

In view of the above discrepancies, the goods and conveyance are required to be detained for further proceedings. Hence, the goods and above conveyance are detained by the undersigned and the driver/person in charge of the conveyance is hereby directed to station the conveyance at _____(place) at his own risk and responsibility and not to part with any goods, till the issue of release order in **FORM GST MOV-05**.

Signature
Designation of the Proper Officer

To,
Shri _____
Driver/Person in charge
Vehicle/Conveyance No:
Address:

GOVERNMENT OF INDIA

FORM GST MOV- 07

NOTICE UNDER SECTION 129 (3) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND THE STATE/UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017 / UNDER SECTION 20 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

The conveyance bearing No. _____ was intercepted by _____ (Name and Designation of the proper officer) on _____ (date) at _____ (time) at _____ (place). The statement of the driver/person in charge of the vehicle was recorded on _____ (date).

2. The goods in movement were inspected under the provisions of sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State/ Union Territory Goods and Services Tax Act, 2017 or under section 20 of the Integrated Goods and Services Tax Act, 2017 read with sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 on _____ (date) and the following discrepancies were noticed.

(i)

(ii)

(iii)

3. In view of the above, the goods and the conveyance used for the movement of goods were detained under sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 and sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State/ Union Territory Goods and Services Tax Act, 2017 or under section 20 of the Integrated Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the Central Goods and Services Tax Act, 2017 by issuing an order of detention in **FORM GST MOV 06** and the same was served on the person in charge of the conveyance on _____ (date).

4. Sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 provides for the release of goods and conveyance detained on the payment of tax and penalty as under:

(i) the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods, where the owner of the goods comes forward to pay such tax and penalty.

(ii) the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon under the Central Goods and Services Tax Act, 2017 and State/UT Goods and Services Tax Act calculated separately or the applicable tax and penalty equal to the value of the goods reduced by the tax amount paid thereon under the Integrated Goods and Services Tax Act, where the owner of the goods does not come forward to pay such tax and penalty.

5. Clause (c) of sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 provides for the release of goods upon furnishing of a security equivalent to the amount

payable under clause (a) or clause (b) of the said sub-section, as indicated supra at (i) and (ii) of para 4 above, in **FORM GST MOV-08**.

6. The calculation of proposed tax and penalty is as under:

1) CALCULATION OF APPLICABLE TAX

					RATE OF TAX				TAX AMOUNT			
Sl. no	Description of goods	HS N code	Quantity	Total value (Rs .)	Central tax	State tax / Union territory tax	Integrated tax	Ce ss	Central tax	State tax / Union territory tax	Integrated tax	Ce ss
1	2	3	4	5	6	7	8	9	10	11	12	13

2) CALCULATION OF APPLICABLE PENALTY UNDER CLAUSE (a) OF SUB-SECTION (1) OF SECTION 129

					RATE OF TAX				PENALTY AMOUNT			
SL .N O	DESC RIPTI ON OF GOO DS	H S N C O D E	QUA NTI TY	TO TA L VA LU E (R S.)	CEN TRA L TAX	STAT E TAX / - UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S
1	2	3	4	5	6	7	8	9	10	11	12	13

3) CALCULATION OF APPLICABLE PENALTY UNDER CLAUSE (b) OF SUB-SECTION (1) OF SECTION 129

					AMOUNT OF TAX				PENALTY AMOUNT			
SL .N O	DESC RIPTI ON OF GOO DS	H S N C O D E	QUA NTI TY	TO TA L VA LU E (R s .)	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO	INTE GRAT ED TAX	C E S S	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO	INTE GRAT ED TAX	C E S S

						RY TAX				RY TAX		
1	2	3	4	5	6	7	8	9	10	11	12	13

7. You are hereby directed to show cause, within seven days from the receipt of this notice, as to why the proposed tax and penalty mentioned supra should not be payable by you, failing which, further proceedings under the provisions of the Central Goods and Services Tax Act, 2017 State/Union Territory Goods and Services Tax Act, 2017 or the Integrated Goods and Services Tax Act, 2017 and the Goods and Services Tax (Compensation to States) Act, 2017 shall be initiated.

8. You are hereby directed to appear before the undersigned on DD/MM/YYYY at HH/MM.

9. If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex-parte on the basis of available records and on merits.

Signature
Name and Designation of the
Proper Officer

To,
Sri. _____
Driver/Person in charge
Vehicle/Conveyance No:
Address:

GOVERNMENT OF INDIA

FORM GST MOV -08

BOND FOR PROVISIONAL RELEASE OF GOODS AND CONVEYANCE

I/We.....S/D/W of.....hereinafter called "obligor(s)" am/are held and firmly bound to the President of India (hereinafter called "the President") and/or the Governor of(State) (hereinafter called "the Governor") for the sum of.....rupees to be paid to the President / Governor for which payment will and truly be made. I jointly and severally bind myself and my heirs/ executors/ administrators/ legal representatives/successors and assigns by these presents; dated this.....day of.....

WHEREAS, in accordance with the provisions of sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017, the goods have been detained vide order numberdated..... having value ofrupees and involving an amount of tax of rupees. On my request, the goods have been permitted to be released provisionally by the proper officer on execution of the bond of valuerupees and a security ofrupees against which bank guarantee has been furnished in favour of the President/ Governor; and

WHEREAS, I undertake to produce the said goods released provisionally to me as and when required by the proper officer duly authorized under the Act.

And if all taxes, interest, penalty, fine and other lawful charges demanded by the proper officer are duly paid within seven days of the date of detention being made in writing by the said proper officer, this obligation shall be void.

OTHERWISE and on breach or failure in the performance of any part of this condition, the same shall be in full force and virtue:

AND the President/Governor shall, at his option, be competent to make good all the losses and damages from the amount of the bank guarantee or by endorsing his rights under the above- written bond or both;

IN THE WITNESS THEREOF these presents have been signed the day hereinbefore written by the obligor(s).

Signature(s) of obligor(s).

Date :

Place :

Witnesses

(1) Name and Address

Occupation

(2) Name and Address Date
Place

Occupation

Accepted by me this.....day of
.....(month).....(year)
..... (designation of officer) for and on behalf of the
President
/Governor.

(Signature of the Officer)

GOVERNMENT OF INDIA

FORM GST MOV -09

ORDER OF DEMAND OF TAX AND PENALTY

Order No.

Order Date

1.	Conveyance No.	
2	Person in charge of the Conveyance	
3	Address of the Person in charge of the Conveyance	
4.	Mobile No. of the Person in charge of the conveyance	
5.	e-mail ID of the Person in charge of the conveyance	
6.	Name of the transporter	
7.	GSTIN of the transporter, if any	
8.	Date and Time of Inspection	
9.	Date of Service of Notice	
10.	Order passed by	
11.	Date of Service of Order	
12.	Demand as per Order	

Act	Tax	Interest	Penalty	Fine/Other charges	Demand No.
CGST Act					
SGST / UTGST Act					
IGST Act					
Cess					
Total					

DETAILS OF GOODS DETAINED

Sl.No.	Description of goods	HSN Code	Quantity	Value

DETAILS OF CONVEYANCE DETAINED

Sl.No.	Description	Details
1	Conveyance Registration No.	
2.	Vehicle Description	
3.	Engine No.	
4.	Chassis No.	
5.		

ORDER ENCLOSED

(Name and
designation of
Proper Officer)

**ORDER UNDER SECTION 129 (3) OF THE CENTRAL GOODS AND SERVICES
TAX ACT, 2017 READ WITH RELEVANT PROVISIONS OF THE STATE/UNION
TERRITORY GOODS AND SERVICES TAX ACT, 2017 INTEGRATED GOODS
AND SERVICES TAX ACT, 2017 AND GOODS AND SERVICES (COMPENSATION
TO STATES) ACT, 2017**

The conveyance bearing No._____ was intercepted by _____ (name and designation of the proper officer) on _____ (date) at _____(time) at _____(place). The statement of the driver/person in charge of the vehicle was recorded on _____ (date).

2. The goods in movement was inspected under the provisions of sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State/ Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act, 2017 read with sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 on _____(date) and the following discrepancies were noticed.

- (i)
- (ii)
- (iii)

3. In view of the above, the goods and the conveyance used for the movement of goods were detained under sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 read with sub-section (3) of section 68 of the State/ Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act read with sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 by issuing an order of detention in **FORM GST MOV-06** and the same was served on the person in charge of the conveyance on _____ (date).

4. Sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 provides for the release of goods and conveyance detained on the payment of tax and penalty as under:

(i) the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods, where the owner of the goods comes forward to pay such tax and penalty.

(ii) the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon under the Central Goods and Services Tax Act and State/Union Territory Goods and Services Tax Act calculated separately or the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon under the Integrated Goods and Services Tax Act, where the owner of the goods does not come forward to pay such tax and penalty.

4.1. Clause (c) of sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 provides for the release of goods upon furnishing of a security equivalent to the amount payable under clause (a) or clause (b) of the said sub-section, as indicated supra at (i) and (ii) of para 4 above, in **FORM GST MOV-08**.

5. The calculation of proposed tax and penalty is as under:

1) CALCULATION OF APPLICABLE TAX

					RATE OF TAX				TAX AMOUNT			
SL .N O	DESC RIPTI ON OF GOO DS	H S N C O D E	QUA NTI TY	TO TA L VA LU E (Rs .)	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S
1	2	3	4	5	6	7	8	9	10	11	12	13

2) CALCULATION OF APPLICABLE PENALTY UNDER CLAUSE (a) OF SUB-SECTION (1) OF SECTION 129

					RATE OF TAX				PENALTY AMOUNT			
SL .N O	DESC RIPTI ON OF GOO DS	H S N C O D E	QUA NTI TY	TO TA L VA LU E (Rs .)	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S
1	2	3	4	5	6	7	8	9	10	11	12	13

3) CALCULATION OF APPLICABLE PENALTY UNDER CLAUSE (b) OF SUB-SECTION (1) OF SECTION 129

					AMOUNT OF TAX				PENALTY AMOUNT			
SL NO	DESC RIPTION OF GOODS	H S N C O D E	QUA NTI TY	TO TA L VA LU E (Rs)	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S
1	2	3	4	5	6	7	8	9	10	11	12	13

6. Incorporating the above points, a notice in **FORM GST MOV-07** was issued and duly served on the person in charge of the conveyance, providing him an opportunity to show cause against the demand of tax and penalty as applicable and make payment of the same and to get the goods and conveyance released.

7. In response to the said notice,

(i) the owner of the goods/ person in charge of the conveyance has come forward and made the payment of tax and penalty as proposed. In view of this, the applicable tax and penalty proposed are hereby confirmed.

(ii) the owner of the goods/ person in charge of the conveyance has neither made the payment of tax and penalty proposed nor has he filed any objections to the notice issued in **FORM GST MOV-07** and hence, the proposed tax and penalty are confirmed.

(iii) the owner of the goods/ person in charge of the conveyance has filed objections as under:

- a. ..
- b. ..
- c. ...

8. The objections filed by him were perused and found acceptable/ not acceptable for the following reasons:

< SPEAKING ORDER Text>

9. In view of the above, the applicable tax and penalty are hereby calculated/recalculated as under:

< RECALCULATION PART>

10. You are hereby directed to make the payment forthwith/not later than seven days from the date of the issue of the order of detention in **FORM GST MOV-06**, failing which action under section 130 of the Central/State Goods and Services Tax Act /section 21 of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Act shall be initiated.

Signature
Name and Designation of the
Proper Officer

To,
Shri _____
Driver/Person in charge
Vehicle/Conveyance No:
Address:

GOVERNMENT OF INDIA

FORM GST MOV -10

**NOTICE FOR CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF
PENALTY UNDER SECTION 130 OF THE CENTRAL GOODS AND SERVICES
TAX ACT, 2017 READ WITH THE RELEVANT PROVISIONS OF STATE/UNION
TERRITORY GOODS AND SERVICES TAX ACT, 2017 / THE INTEGRATED
GOODS AND SERVICES TAX ACT, 2017 AND GOODS AND SERVICES TAX
(COMPENSATION TO STATES) ACT, 2017**

The conveyance bearing No. _____ was intercepted by _____ (Designation of the proper officer) on _____ (date) at _____ (time) at _____ (place). The statement of the driver/person in charge of the vehicle was recorded on _____ (date).

2. The goods in movement was inspected under the provisions of subsection (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State Goods and Services Tax Act / Section 21 of the Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act read with subsection (3) of section 68 of the Central Goods and Services Tax Act on _____ (date) and the following discrepancies were noticed.

(i)

(ii)

(iii)

3. In view of the above, the goods and conveyances used for the movement of goods were detained under sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State/ Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act read with subsection (3) of section 68 of the Central Goods and Services Tax Act by issuing an order of detention in **FORM GST MOV 06** and the same was served on the person in charge of the conveyance on _____ (date). Along with the order of detention in **FORM GST MOV 06**, a notice was issued in **FORM GST MOV 07** under the provisions of sub-section (3) of section 129 of the Central Goods and Services Tax Act, 2017, specifying the tax and penalty payable in respect of the goods in question.

4. Subsequently, after observing the principles of natural justice, an order demanding the applicable tax and penalty was issued in **FORM GST MOV-09** on _____ (Date) and the same was served on the person in charge of the conveyance. However, neither the owner of the goods nor the person in charge of the conveyance came forward to make the payment of applicable tax and penalty within the time allowed in the order passed supra.

5. In view of this, the undersigned proposes to confiscate the above goods and the conveyance used to transport such goods under the provisions of section 130 of the Central Goods and Services Tax Act, 2017 read with State Goods and Services Tax Act / section 21

of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Tax Act, 2017/Goods and Services Tax (Compensation to States) Act, 2017. In addition, you are liable to pay the tax, penalty and other charges payable in respect of such goods and the conveyance.

OR

As the goods were transported without any valid documents, it is presumed that the goods were being transported for the purposes of evading the taxes. In view of this, the undersigned proposes to confiscate the above goods and the conveyance used to transport such goods under the provisions of section 130 of the Central Goods and Services Tax Act, 2017 read with the relevant provisions of the State Goods and Services Tax/Union Territory Goods and Services Tax Act, the Integrated Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, 2017. In addition, you are liable to pay the tax, penalty and other charges payable in respect of such goods and the conveyance.

6. The calculation of proposed tax and penalty is as under:

1) CALCULATION OF TAX

					RATE OF TAX				TAX AMOUNT			
SL .N O	DESC RIPTI ON OF GOO DS	H S N C O D E	QUA NTI TY	TO TA L VA LU E (Rs)	CEN TRA L TAX	STAT E TAX / UNIO N TER RITORY TAX	INTE GRAT ED TAX	C E S S	CEN TRA L TAX	STAT E TAX / UNIO N TER RITORY TAX	INTE GRAT ED TAX	C E S S
1	2	3	4	5	6	7	8	9	10	11	12	13

2) CALCULATION OF PENALTY

					RATE OF TAX				PENALTY AMOUNT			
SL .N O	DESC RIPTI ON OF GOO DS	H S N C O D E	QUA NTI TY	TO TA L VA LU E (Rs)	CEN TRA L TAX	STAT E TAX / UNIO N TER RITORY TAX	INTE GRAT ED TAX	C E S S	CEN TRA L TAX	STAT E TAX / UNIO N TER RITORY TAX	INTE GRAT ED TAX	C E S S

				.)		RITO RY TAX				RITO RY TAX		
1	2	3	4	5	6	7	8	9	10	11	12	13

3) DETERMINATION OF FINE IN LIEU OF CONFISCATION OF GOODS

					FINE AMOUNT			
SL. NO	DESCRIP TION OF GOODS	HSN CO DE	QUANT ITY	TOT AL VAL UE (Rs.)	CENTR AL TAX	STATE TAX / UNION TERRIT ORY TAX	INTEGRA TED TAX	CE SS
1	2	3	4	5	6	7	8	9

4) CALCULATION OF FINE IN LIEU OF CONFISCATION OF CONVEYANCE

					RATE OF TAX				FINE AMOUNT			
SL .NO	DESC RIPTI ON OF GOO DS	H S C O D E	QUA NTI TY	TO TA L VA LU E (Rs .)	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S
1	2	3	4	5	6	7	8	9	10	11	12	13

7. You are hereby directed to show cause, within seven days from the receipt of this notice, as to why the goods in question and the conveyance used to transport such goods shall not be confiscated under the provisions of section 130 of the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, 2017 and why the tax, penalty and other charges payable in respect of such goods and the conveyance shall not be payable by you.
8. You are hereby directed to appear before the undersigned on DD/MM/YYYY at HH/MM.

9. If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex-parte on the basis of available records and on merits.

Signature
Name and Designation of the
Proper Officer

To,
Shri _____
Driver/Person in charge
Vehicle/Conveyance no:
Address:

GOVERNMENT OF INDIA**FORM GST MOV -11****ORDER OF CONFISCATION OF GOODS AND CONVEYANCE AND DEMAND OF
TAX, FINE AND PENALTY**

Order No.

Order Date:

1.	Conveyance No.	
2	Person in charge of the Conveyance	
3	Address of the Person in charge of the Conveyance	
4.	Mobile No. of the Person in charge of the conveyance	
5.	e-mail ID of the Person in charge of the conveyance	
6.	Name of the transporter	
7.	GSTIN of the transporter, if any	
8.	Date and Time of Inspection	
9.	Date of Service of Notice of Confiscation	
10.	Order passed by	
11.	Date of Service of Order	
12.	Demand as per Confiscation Order	

On the Goods

Act	Tax	Interest	Penalty	Fine/ Other charges	Demand No.
CGST Act					
SGST / UTGST Act					
IGST Act					
Cess					
Total					

On the Conveyance

Act	Tax	Interest	Penalty	Fine/ Other charges	Demand No.
CGST Act					
STATE TAX / UTGST Act					

IGST Act					
Cess					
Total					

DETAILS OF GOODS CONFISCATED

Sl.No.	Description of goods	HSN Code	Quantity	Value

DETAILS OF CONVEYANCE CONFISCATED

Sl.No.	Description	Details
1	Conveyance Registration No.	
2.	Vehicle Description	
3.	Engine No.	
4.	Chassis No.	
5.		

ORDER ENCLOSED

(Name and
designation of
Proper Officer)

ORDER OF CONFISCATION UNDER SECTION 130 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 READ WITH THE RELEVANT PROVISIONS OF THE STATE/UNION TERRITORY GOODS AND SERVICES TAX ACT/ THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

The conveyance bearing No._____ was intercepted by _____ (Name and Designation of the proper officer) on _____ (date) at _____(time) at _____(place). The statement of the driver/person in charge of the vehicle was recorded on _____(date).

2. The goods in movement was inspected under the provisions of sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with the relevant provisions of the State/ Union Territory Goods and Services Tax Act/the Integrated Goods and Services Tax Act, 2017 and Goods and Services Tax (Compensation to States) Act, 2017 on _____(date) and the following discrepancies were noticed.

(i)

(ii)

(iii)

3. In view of the above, the goods and conveyances used for the movement of goods were detained under sub-section (1) of section 129 of the Central Goods and Services Tax Act read with sub-section (3) of section 68 of the State/ Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act read with sub-section (3) of section 68 of the Central Goods and Services Tax Act by issuing an order of detention in **FORM GST MOV 06** and the same was served on the person in charge of the conveyance on ____ (date). Along with the order of detention in **FORM GST MOV 06**, a notice was issued in **FORM GST MOV 07** under the provisions of sub-section (3) of section 129 of the Central Goods and Services Tax Act, specifying the tax and penalty payable.

4. Subsequently, after observing the principles of natural justice, an order demanding the applicable tax and penalty was issued in **FORM GST MOV-09** on _____(Date) and the same was served on the person in charge of the conveyance. However, neither the owner of the goods nor the person in charge of the conveyance came forward to make the payment of applicable tax and penalty within the time allowed in the order passed supra. Hence, a notice in **FORM GST MOV-10** was issued on _____(Date) proposing to confiscate the goods and the conveyance used for transporting such goods and the same was duly served on the person in charge of the conveyance. In the said notice, the tax, penalty and other charges payable in respect of such goods and the conveyance were also demanded.

OR

As the goods were transported without any valid documents, it was presumed that the goods were transported for the purposes of evading the taxes. Hence, it was proposed to confiscate the above goods and the conveyance used to transport such goods under the provisions of section 130 of the Central Goods and Services Tax Act, 2017 read with State Goods and Services Tax Act / Section 21 of the UT Union Territory Goods and Services Tax Act or

section 20 of the Integrated Goods and Services Tax Act, 2017 and the Goods and Services Tax (Compensation to States) Act, 2017 by issue of a notice in **FORM GST MOV-10**. In the said notice, the tax, penalty and other charges payable in respect of such goods and the conveyance were also demanded.

5. The person in charge has not filed any objections/ the objections filed were found to be not acceptable for the reasons stated below:

- a) ...
- b) ...
- c) ...

6. In view of the above, the following goods and conveyance are confiscated by the undersigned by exercising the powers vested under section 130 of the Central Goods and Services Tax Act and under section 130 of the State Goods and Services Tax Act / Section 21 of the Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act which are listed as under:

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)
1	2	3	4	5

7. You are also informed that the above goods and conveyance shall be released on the payment of the following tax, penalty and fines in lieu of confiscation if the same is made within ----- days from the date of this order.

(1) CALCULATION OF TAX

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	RATE OF TAX				TAX AMOUNT			
					CEN TRAL TAX	STAT E TAX / UNIO N	INTE GRAT ED TAX	C ES	CEN TRAL TAX	STAT E TAX / UNIO N	INTE GRAT ED TAX	C ES
1	2	3	4	5	6	7	8	9	10	11	12	13

(2) CALCULATION OF PENALTY

					RATE OF TAX	PENALTY AMOUNT
--	--	--	--	--	-------------	----------------

SL .N O	DESC RIPTI ON OF GOO DS	H S N C O D E	QUA NTI TY	TO TA L VA LU E (Rs .)	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S
1	2	3	4	5	6	7	8	9	10	11	12	13

(3) DETERMINATION OF FINE IN LIEU OF CONFISCATION OF GOODS

					FINE AMOUNT			
SL. NO	DESCRIP TION OF GOODS	HSN CO DE	QUANT ITY	TOT AL VAL UE (Rs.)	CEN TR AL TAX	STATE TAX / UNION TERRIT ORY TAX	INTEGRA TED TAX	CE SS
1	2	3	4	5	6	7	8	9

(4) CALCULATION OF FINE IN LIEU OF CONFISCATION OF CONVEYANCE

					RATE OF TAX				FINE AMOUNT			
SL .N O	DESC RIPTI ON OF GOO DS	H S N C O D E	QUA NTI TY	TO TA L VA LU E (Rs .)	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S	CEN TRA L TAX	STAT E TAX / UNIO N TER RITO RY TAX	INTE GRAT ED TAX	C E S S
1	2	3	4	5	6	7	8	9	10	11	12	13

Signature

Name and Designation of the Proper Officer

To,
Shri _____
Driver/Person in charge
Vehicle/Conveyance no:
Address:

CBEC-20/16/03/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 13th April, 2018

To

The Principal Chief Commissioners/Chief Commissioners/ Principal Commissioners/
Commissioner of Central Tax (All) / The Principal Directors General/ Directors General
(All)

Sub: Clarification regarding procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit-reg.

Madam/ Sir,

Kind attention is invited to the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) relating to the recovery of arrears of central excise duty /service tax and CENVAT credit thereof, CENVAT credit carried forward erroneously and related interest, penalty or late fee payable arising as a result of the proceedings of assessment, adjudication, appeal etc. initiated before, on or after the appointed date under the provisions of the existing law. In this regard, representations have been received seeking clarification on the procedure for recovery of such arrears in the GST regime.

2. The issues have been examined and 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 Central Goods and Services Tax Act, 2017, (hereinafter referred to as the “CGST Act”) hereby specifies the procedure to be followed for recovery of arrears arising out of proceedings under the existing law.

3. **Legal provisions relating to the recovery of arrears of central excise duty and service tax and CENVAT credit thereof arising out of proceedings under the existing law (Central Excise Act, 1944 and Chapter V of the Finance Act, 1994)**

i) **Recovery of arrears of wrongly availed CENVAT Credit:**

In case where any proceeding of appeal, review or reference relating to a claim for CENVAT credit had been initiated, whether before, on or after the appointed day, under the existing law, any amount of such credit becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the CGST Act [Section 142(6)(b) of the CGST Act refers].

ii) Recovery of CENVAT Credit carried forward wrongly:

CENVAT credit of central excise duty/service tax availed under the existing law may be carried forward in terms of transitional provisions as per section 140 of the CGST Act subject to the conditions prescribed therein. Any credit which is not admissible in terms of section 140 of the CGST Act shall not be allowed to be transitioned or carried forward and the same shall be recovered as an arrear of tax under section 79 of the CGST Act.

iii) Recovery of arrears of central excise duty and service tax:

- a. Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the CGST Act [**Section 142(8)(a) of the CGST Act refers**].
- b. If due to any proceedings of appeal, review or reference relating to output duty or tax liability initiated, whether before, on or after the appointed day, under the existing law, any amount of output duty or tax becomes recoverable, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the CGST Act [**Section 142(7)(a) of the CGST Act refers**].

iv) Recovery of arrears due to revision of return under the existing law:

Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under the CGST Act [**Section 142(9)(a) of the CGST Act refers**].

4. In view of the above legal provisions, recovery of central excise duty/ service tax and CENVAT credit thereof arising out of the proceedings under the existing law, unless recovered under the existing law, and that of inadmissible transitional credit, is required to be made as an arrear of tax under the CGST Act. The following procedure is hereby prescribed for the recovery of arrears:

4.1 Recovery of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law and inadmissible transitional credit:

- (a) The CENVAT credit of central excise duty or service tax wrongly carried forward as transitional credit shall be recovered as central tax liability to be paid through the utilization of amounts available in the **electronic credit ledger or electronic cash ledger** of the registered person, and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GST PMT-01**).

- (b) The arrears of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law arising out of any of the situations discussed in para 3 above, shall, unless recovered under the existing law, be recovered as central tax liability to be paid through the utilization of amounts available in the **electronic credit ledger or electronic cash ledger** of the registered person, and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GST PMT-01**).

4.2 Recovery of interest, penalty and late fee payable:

(a) The arrears of interest, penalty and late fee in relation to CENVAT credit wrongly carried forward, arising out of any of the situations discussed in para 3 above, shall be recovered as interest, penalty and late fee of central tax to be paid through the utilization of the amount available in **electronic cash ledger** of the registered person and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GST PMT-01**).

(b) The arrears of interest, penalty and late fee in relation to arrears of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law arising out of any of the situations discussed in para 3 above, shall, unless recovered under the existing law, be recovered as interest, penalty and late fee of central tax to be paid through the utilization of the amount available in the **electronic cash ledger** of the registered person and the same shall be recorded in **Part II** of the Electronic Liability Register (**FORM GST PMT-01**).

4.3 Payment of central excise duty & service tax on account of returns filed for the past period:

The registered person may file Central Excise / Service Tax return for the period prior to 1st July, 2017 by logging onto **www.aces.gov.in** and make payment relating to the same through EASIEST portal (**cbec-easiest.gov.in**), as per the practice prevalent for the period prior to the introduction of GST. However, with effect from 1st of April, 2018, the return filing shall continue on **www.aces.gov.in** but the payment shall be made through the ICEGATE portal. As the registered person shall be automatically taken to the payment portal on filing of the return, the user interface remains the same for him.

4.4 Recovery of arrears from assessee under the existing law in cases where such assessee is not registered under the CGST Act, 2017:

Such arrears shall be recovered in cash, under the provisions of the existing law and the payment of the same shall be made as per the procedure mentioned in para 4.3 supra.

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

6. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

**F. No. 349/48/2017-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing**

New Delhi, Dated the 13th April, 2018

To,

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

The Principal Director Generals/ Director Generals (All)

Madam / Sir,

Subject: Queries regarding processing of refund applications for UIN agencies

The Board vide Circular No. 36/10/2017 dated 13th March, 2018 clarified and specified the detailed procedure for UIN refunds. After issuance of the Circular, a number of queries and representations have been received regarding the processing of refund to agencies which have been allotted UINs. In order to clarify some of the issues and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) hereby clarifies the following issues:

2. Providing statement of invoices while submitting the refund application:

2.1. The procedure for filing a refund application has been outlined under rule 95 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as ‘the CGST Rules’) which provides for filing of refund on a quarterly basis in **FORM RFD-10** along with a statement of inward invoices in **FORM GSTR-11**. It has come to the notice of the Board that the print version of **FORM GSTR-11** generated by the system does not have invoice-wise details. Therefore, it is clarified that till the system generated **FORM GSTR-11** does not have invoice-level details, UIN agencies are requested to manually furnish a statement containing the details of all the invoices on which refund has been claimed, along with refund application.

2.2. Further, the officers are advised not to request for original or hard copy of the invoices unless necessary.

3. No mention of UINs on Invoices:

3.1. It has been represented that many suppliers did not record the UINs on the invoices of supplies of goods or services to UIN agencies. It is hereby clarified that the recording of UIN on the invoice is a necessary condition under rule 46 of the CGST Rules, 2017. If suppliers / vendors are not recording the UINs, action may be initiated against them under the provisions of the CGST Act, 2017.

3.2. Further, in cases where, UIN has not been recorded on the invoices pertaining to refund claim for the quarters of July – September 2017, October – December 2017 and January – March 2018, a one-time waiver is being given by the Government, subject to the condition that copies of such invoices will be submitted to the jurisdictional officers and will be attested by the authorized representative of the UIN agency. Field officers are advised that the terms of Notification No. 16/2017-Central Tax (Rate) dated 28th June 2017 and corresponding notifications under the Integrated Goods and Services Tax Act, 2017, Union Territory Goods and Services Tax Act, 2017 and respective State Goods and Services Tax Acts should be satisfied while processing such refund claims.

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

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

(Upender Gupta)
Commissioner (GST)

F. No. 341/28/2017-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax Research Unit

New Delhi, the 2nd May, 2018

To,

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

Madam/Sir,

Subject: **Issue related to taxability of ‘tenancy rights’ under GST- regarding**

Doubts have been raised as to,-

- (i) Whether transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium, shall attract GST when stamp duty and registration charges is levied on the said premium, if yes what would be the applicable rate?
- (ii) Further, in case of transfer of tenancy rights, a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST?

2. The issue has been examined. The transfer of tenancy rights against tenancy premium which is also known as “*pagadi system*” is prevalent in some States. In this system the tenant acquires, tenancy rights in the property against payment of tenancy premium(pagadi). The landlord may be owner of the property but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceed with owner of land, as laid down in their tenancy agreement. Alternatively, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999.

3. As per section 9(1) of the CGST Act there shall be levied central tax on the intra-State supplies of services. The scope of supply includes all forms of supply of goods and services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business and also includes the activities specified in Schedule II. The activity of transfer of tenancy right against consideration in the form of tenancy premium is a supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in para 2 of Schedule II i.e. any lease, tenancy, easement, licence to occupy land is a supply of services

4. The contention that stamp duty and registration charges is levied on such transfers of tenancy rights, and such transaction thus should not be subjected to GST, is not relevant. Merely because a transaction or a supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the scope of supply of goods and services and from payment of GST. The transfer of tenancy rights cannot be treated as sale of land or building declared as neither a supply of goods nor of services in para 5 of Schedule III to CGST Act, 2017. Thus a consideration for the said activity shall attract levy of GST.

5. To sum up, the activity of transfer of 'tenancy rights' is squarely covered under the scope of supply and taxable per-se. Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. However, renting of residential dwelling for use as a residence is exempt[Sl. No. 12 of notification No. 12/2017-Central Tax(Rate)]. Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

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

Yours Faithfully,

Harsh Singh
Technical Officer (TRU)
Email: harshsingh.irs@gov.in

**F. No. CBEC/20/16/4/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing**

New Delhi, Dated the 30th May, 2018

To,

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

The Principal Directors General/ Directors General (All)

Madam / Sir,

Subject: Clarifications on refund related issues – reg.

The Board *vide* Circular No. 17/17/2017 – GST dated 15th November 2017, No. 24/24/2017 – GST dated 21st December 2017 and No. 37/11/2018 – GST dated 15th March, 2018 has laid down the procedure for manual filing and processing of different types of refund claims under GST and clarified the exports related refund issues.

2. Representations have been received seeking clarification on certain refund related issues. In order to clarify these issues and with a view to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (CGST Act for short) hereby clarifies the issues raised as below:

3. Claim for refund filed by an Input Service Distributor, a person paying tax under section 10 or a non-resident taxable person:

3.1 Doubts have been raised in case of claims for refund filed by an Input Service Distributor (ISD for short), a person paying tax under section 10 of the CGST Act (composition taxpayer for short) or a non-resident taxable person in light of para 2.0 of Circular No. 24/24/2017-GST dated 21.12.2017 which mandates that the refund claim for a tax period may be filed only after filing the details in **FORM GSTR-1** for the said tax period

and that it is also to be ensured that a valid return in **FORM GSTR-3B** has been filed for the last tax period before the one in which the refund application is being filed.

3.2 In this regard, attention is invited to sub-section (1) of section 37 of the CGST Act read with rule 59 of the Central Goods and Services Tax Rules, 2017 (CGST Rules for short) which mandates that every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish the details of outward supplies of goods or services or both effected during a tax period in **FORM GSTR-1**. Further, as per sub-section (2) of section 39 of the CGST Act read with rule 62 of the CGST Rules, a composition taxpayer is required to furnish the return in **FORM GSTR-4**; as per sub-section (4) of section 39 of the CGST Act read with rule 65 of the CGST Rules, an ISD is required to furnish the return in **FORM GSTR-6** and as per sub-section (5) of section 39 of the CGST Act read with rule 63 of the CGST Rules, a non-resident taxable person is required to furnish the return in **FORM GSTR-5**.

3.3 Thus, it is clarified that in case of a claim for refund of balance in the electronic cash ledger filed by an ISD or a composition taxpayer; and the claim for refund of balance in the electronic cash and/or credit ledger by a non-resident taxable person, the filing of the details in **FORM GSTR-1** and the return in **FORM GSTR-3B** is not mandatory. Instead, the return in **FORM GSTR-4** filed by a composition taxpayer, the details in **FORM GSTR-6** filed by an ISD and the return in **FORM GSTR-5** filed by a non-resident taxable person shall be sufficient for claiming the said refund.

4. Application for refund of integrated tax paid on export of services and supplies made to a Special Economic Zone developer or a Special Economic Zone unit:

4.1 It has been represented that while filing the return in **FORM GSTR-3B** for a given tax period, certain registered persons committed errors in declaring the export of services on payment of integrated tax or zero rated supplies made to a Special Economic Zone developer or a Special Economic Zone unit on payment of integrated tax. They have shown such supplies in the Table under column 3.1(a) instead of showing them in column 3.1(b) of **FORM GSTR-3B** whilst they have shown the correct details in Table 6A or 6B of **FORM GSTR-1** for the relevant tax period and duly discharged their tax liabilities. Such registered persons are unable to file the refund application in **FORM GST RFD-01A** for refund of integrated tax paid on the export of services or on supplies made to a SEZ developer or a SEZ unit on the GST common portal because of an in-built validation check in the system which restricts the refund amount claimed (integrated tax/cess) to the amount of integrated tax/cess

mentioned under column 3.1(b) of **FORM GSTR-3B** (zero rated supplies) filed for the corresponding tax period.

4.2 In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 31.03.2018, such registered persons shall be allowed to file the refund application in **FORM GST RFD-01A** on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of **FORM GSTR-3B** filed for the corresponding tax period.

5. Refund of unutilized input tax credit of compensation cess availed on inputs in cases where the final product is not subject to the levy of compensation cess:

5.1 Doubts have been raised whether an exporter is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminum products, whereas cess is not levied on aluminum products.

5.2 In this regard, section 16(2) of the Integrated Goods and Services Tax Act, 2017 (IGST Act for short) states that, subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero rated supplies. Further, as per section 8 of the Goods and Services Tax (Compensation to States) Act, 2017, (hereafter referred to as the Cess Act), all goods and services specified in the Schedule to the Cess Act are leviable to cess under the Cess Act; and vide section 11 (2) of the Cess Act, section 16 of the IGST Act is *mutatis mutandis* made applicable to inter-State supplies of all such goods and services. Thus, it implies that all supplies of such goods and services are zero rated under the Cess Act. Moreover, as section 17(5) of the CGST Act does not restrict the availment of input tax credit of compensation cess on coal, it is clarified that a registered person making zero rated supply of aluminum products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal.

5.3 Such registered persons may also make zero-rated supply of aluminum products on payment of integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies. Accordingly, they cannot claim refund of compensation cess in case of zero-rated supply on payment of integrated tax.

6. Whether bond or Letter of Undertaking (LUT) is required in the case of zero rated supply of exempted or non-GST goods and whether refund can be claimed by the exporter of exempted or non-GST goods?

6.1 As per section 16(2) of the IGST Act, credit of input tax may be availed for making zero rated supplies, notwithstanding that such supply is an exempt supply. Whereas, as per section 2 (47) of the CGST Act, exempt supply includes non-taxable supply. Further, as per section 16(3) of the IGST Act, a registered person making zero rated supply shall be eligible to claim refund when he either makes supply of goods or services or both under bond or letter of undertaking (LUT) or makes such supply on payment of integrated tax.

6.2 However, in case of zero rated supply of exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted upon. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax; LUT/bond is not required. Such registered persons exporting non-GST goods shall comply with the requirements prescribed under the existing law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any.

6.3 Further, the exporter would be eligible for refund of unutilized input tax credit of central tax, state tax, union territory tax, integrated tax and compensation cess in such cases.

7. What is the scope of the restriction imposed by rule 96(10) of the CGST Rules, regarding non-availment of the benefit of notification Nos. 48/2017-Central Tax dated the 18.10.2017, 40/2017-Central Tax (Rate) dated 23.10.2017, 41/2017-Integrated Tax (Rate) dated 23.10.2017, 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017?

7.1 Sub-rule (10) of rule 96 of the CGST Rules seeks to prevent an exporter, who is receiving goods from suppliers availing the benefit of certain specified notifications under which they supply goods without payment of tax or at reduced rate of tax, from exporting goods under payment of integrated tax. This is to ensure that the exporter does not utilise the input tax credit availed on other domestic supplies received for making the payment of integrated tax on export of goods.

7.2 However, the said restriction is not applicable to an exporter who has procured goods from suppliers who have not availed the benefits of the specified notifications for making their outward supplies. Further, the said restriction is also not applicable to an exporter who has procured goods from suppliers who have, in turn, received goods from registered persons availing the benefits of these notifications since the exporter did not directly procure these goods without payment of tax or at reduced rate of tax.

7.3 Thus, the restriction under sub-rule (10) of rule 96 of the CGST Rules is only applicable to those exporters who are directly receiving goods from those suppliers who are availing the benefit under notification No. 48/2017-Central Tax dated the 18th October, 2017, notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017, or notification No. 41/2017-Integrated Tax (Rate) dated the 23rd October, 2017 or notification No. 78/2017-Customs dated the 13th October, 2017 or notification No. 79/2017-Customs dated the 13th October, 2017.

7.4 Further, there might be a scenario where a manufacturer might have imported capital goods by availing the benefit of Notification No. 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017. Thereafter, goods manufactured from such capital goods may be supplied to an exporter. It is hereby clarified that this restriction does not apply to such inward supplies of an exporter.

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

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

(Upender Gupta)
Commissioner (GST)

F. No. 354/119/2017 –TRU (Pt)
Government of India
Ministry of Finance
Department of Revenue
Tax Research Unit

North Block, New Delhi
Dated the 7th of July, 2017

To,

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

Subject: Clarification on Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance- regarding.

The issue relating to levy of IGST exemption on inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017, carrying goods or passengers or both; or for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] has been examined.

2. In the above context, the legal provisions in GST laws are as under:

- a) As per section 24 (1) (i) of the Central Goods and Services Tax Act, 2017, persons making any inter-State taxable supply shall be required to be registered under this Act.
- b) As per section 25(4) of the said Act a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- c) Schedule I to the said Act specifies situations where activities are to be treated as supply even if made without consideration which also includes supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business
- d) Section 7 (2) envisages that activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

3. Against the above background, the issue of inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including-

- i. Trains,
- ii. Buses,
- iii. Trucks,

- iv. Tankers,
- v. Trailers,
- vi. Vessels,
- vii. Containers,
- viii. Aircrafts,

(a) carrying goods or passengers or both; or (b) for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council's meeting held on 11th June, 2017 and the Council recommended that such inter-state movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

4. In view of above, it is hereby clarified that "the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017, including the ones specified at (i) to (viii) of para 3, may not be treated as supply and consequently IGST will not be payable on such supply.

5. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

(Ruch Bisht.)
Under Secretary (TRU)

फ.सं. 354/119/2017- टीआरयू

भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
कर अनुसंधान एकक

नॉर्थ ब्लॉक, नई दिल्ली,
तारीख 7 जुलाई, 2017

सेवा में,

प्रधान मुख्य आयुक्त/ मुख्य आयुक्त / प्रधान आयुक्त / आयुक्त, केंद्रीय कर (समस्त) / प्रणाली महानिदेशक

विषय : माल या यात्रियों का वहन करने के लिए या मरम्मत या अनुरक्षण के लिए परिवहन के विभिन्न
ढंगों के अंतर्राज्यिक संचलन पर स्पष्टीकरण - के संबंध में।

माल या यात्रियों का वहन करने के लिए या मरम्मत या अनुरक्षण के लिए केंद्रीय माल और सेवा कर अधिनियम, 2017 की धारा 25 (4) में यथा विनिर्दिष्ट सुभिन्न व्यक्तियों के बीच परिवहन की विभिन्न रीतियों से अंतर्राज्यिक संचलन पर एकीकृत माल और सेवा कर के उद्बहण की छूट का मुद्दा, जो माल या यात्री या दोनों का परिवहन कर रहे हैं; या मरम्मत या अनुरक्षण कर रहे हैं [उन मामलों के सिवाय जहां ऐसा संचलन उसी परिवहन की ओर पूर्ति के लिए है] की जांच कर ली गई है।

2. पूर्वोक्त परिप्रेक्ष्य में माल और सेवा कर विधियों में विधिक उपबंध नीचे दिए अनुसार है:

क) केंद्रीय माल और सेवा कर अधिनियम, 2017 की धारा 24 (1) (i) के अनुसार अंतर्राज्यिक कराधेय पूर्ति करने वाले व्यक्तियों से इस अधिनियम के अधीन राजस्ट्रीकृत होने की अपेक्षा।

ख) उक्त अधिनियम की धारा 25 (4) के अनुसार कोई व्यक्ति, जिसने रजिस्ट्रीकरण अधिप्राप्त कर लिया है या जिससे एक से अधिक रजिस्ट्रीकरण अधिप्राप्त करने की अपेक्षा है, चाहें एक राज्य या संघ राज्य क्षेत्र में या एक से अधिक राज्य या संघ राज्य क्षेत्र में वह प्रत्येक रजिस्ट्रीकरण के संबंध में इस अधिनियम के प्रयोजनों के लिए सुभिन्न व्यक्ति माना जाएगा।

ग) उक्त अधिनियम की अनुसूची 1 उन स्थितियों को विनिर्दिष्ट करती है, जिनमें कार्यकलापों को पूर्ति माना जाएगा, चाहें बिना किसी प्रतिफल के की गई हो, जिसके अंतर्गत नातेदार व्यक्तियों या सुभिन्न व्यक्तियों के बीच माल या सेवाओं की पूर्ति भी है, जैसा कि धारा 25 में विनिर्दिष्ट है, जब वह कारबार का अग्रसर करने के अनुक्रम में की जाए।

घ) धारा 7 (2) परिकल्पित करती है कि केंद्रीय सरकार, राज्य सरकार या स्थानीय प्राधिकरण द्वारा किए गए कार्यकलाप या संव्यवहार, जिनमें वह लोक प्राधिकारी के रूप में लगे हुए हैं, जो सरकार द्वारा परिषद् की सिफारिशों पर अधिसूचित किए जाएं, को न तो माल की पूर्ति न ही सेवाओं की पूर्ति माना जाएगा।

3 पूर्वोक्त पृष्ठभूमि को ध्यान में रखते हुए, अंतर्राज्यिक माल के संचलन का मुद्दा, जैसे कि उक्त अधिनियम की धारा 25 (4) में यथा विनिर्दिष्ट सुभिन्न व्यक्तियों के बीच परिवहन के विभिन्न ढंग, जिसमें ऐसे परिवहन की ओर पूर्ति अंतर्बलित नहीं है, जिसके अंतर्गत-

i. रेलगाड़ी,

- ii. बस,
- iii. ट्रक,
- iv. टैंकर,
- v. ट्रेलर,
- vi. जलयान,
- vii. कंटेनर,
- viii. वायुयान

(क) जो माल या यात्रियों या दोनों का वहन कर रहे हैं; या (ख) मरम्मत और अनुरक्षण के लिए [उन मामलों के सिवाय जहां ऐसा संचलन उसी परिवहन की और पूर्ति के लिए है] पर 11 जून, 2017 को आयोजित माल और सेवा कर परिषद् की बैठक में विचार-विमर्श किया गया था तथा परिषद् ने सिफारिश की कि ऐसे अंतर्राज्यिक संचलन को 'न तो माल या सेवा की पूर्ति' माना जाएगा और इसलिए वह एकीकृत माल और सेवा कर ऐसे उद्घाटनीय नहीं है।

4. पूर्वोक्त के मद्देनजर यह स्पष्ट किया जाता है कि, केंद्रीय माल और सेवा कर अधिनियम, 2017 की धारा 25(4) में यथा विनिर्दिष्ट मालों का अंतर्राज्यिक संचलन जैसे परिवहन की विभिन्न रीतियों से संचलन, सुभिन्न व्यक्तियों के बीच, जिसके अंतर्गत पैरा 3 के (i) से (viii) यथा विनिर्दिष्ट है, को पूर्ति नहीं माना जाएगा और परिणामस्वरूप ऐसी पूर्ति पर एकीकृत माल और सेवा कर संदेय नहीं होगा।

5. तथापि, यथास्थिति, लागू केंद्रीय माल और सेवा कर/राज्य और माल सेवा कर/एकीकृत माल और सेवा कर ऐसे परिवहन के लिए मरम्मत और अनुरक्षणों पर संदेय होगा।

(रूचि बिष्ट)

अवर सचिव, भारत सरकार

F. No. 354/173/2017-TRU

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

North Block, New Delhi

27th September 2017

To,

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

The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Clarification on supply of satellite launch services by ANTRIX Corporation Ltd -
regarding.

Request has been received regarding taxability of satellite launch services provided to both international and domestic customers by ANTRIX Corporation Limited which is a wholly owned Government of India Company under the administrative control of Department of Space (DOS).

2. In the above context, the legal provisions in GST laws are as under:

- a) Export of services is defined in IGST Act in Section 2(6) where the following 5 conditions have been prescribed as necessary for a supply to qualify as export of service:
- (i) the supplier of service is located in India;
 - (ii) the recipient of service is located outside India;
 - (iii) the place of supply of service is outside India;
 - (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
 - (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;
- One of the five conditions for a supply of service to be considered as “export of service” is that the place of supply of service is outside India.

- b) Section 13(9) of the IGST Act provides that where location of supplier of services or location of recipient of services is outside India, the place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods. However, where location of supplier and recipient of services is in India, then the place of supply is governed by section 12 (8) of the IGST Act, which stipulates that place of supply will be the location of the recipient of services provided

he is registered; if not registered, then the place of supply will be the place where goods are handed over for their transportation.

3. In view of the above, place of supply of satellite launch services supplied by ANTRIX Corporation Limited to international customers would be outside India in terms of section 13(9) of IGST Act, 2017 and such supply which meets the requirements of section 2(6) of IGST Act, thus constitutes export of service and shall be zero rated in accordance with section 16 of the IGST Act. Where satellite launch service is provided by ANTRIX Corporation Limited to a person located in India, the place of supply of satellite launch service would be governed by section 12 (8) of the IGST Act and would be taxable under CGST Act, UTGST Act or IGST Act, as the case may be.

4. Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.

Yours Faithfully,

Rachna

Technical Officer (TRU)

फाइल संख्या 354/173/2017-टीआरयू

भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
कर अनुसंधान एकक

नार्थ ब्लॉक, नई दिल्ली,
दिनांक सितम्बर, 2017

सेवा में,

प्रधान मुख्य आयुक्त/मुख्य आयुक्त/प्रधान आयुक्त/आयुक्त, केन्द्रीय कर (सभी)/प्रधान महानिदेशक/महानिदेशक/सभी

महोदया/महोदय,

विषय: अंतरिक्ष कारपोरेशन लिमिटेड के द्वारा प्रदान की गई उपग्रह प्रक्षेपण सेवाओं से संबंधित स्पष्टीकरण ।

अंतरिक्ष कारपोरेशन लिमिटेड जो कि भारत सरकार के पूर्णतया स्वामित्व में आने वाली एक कंपनी है और अंतरिक्ष विभाग (डीओएस) के प्रशासनिक नियंत्रण में आती है के द्वारा अंतरराष्ट्रीय और घरेलू दोनों ही ग्राहकों को प्रदान की गई उपग्रह प्रक्षेपण सेवाओं पर कर लगाने से संबंधित अनुरोध प्राप्त हुआ है ।

2. उपर्युक्त संदर्भ में जीएसटी कानून से संबंधित विधिक प्रावधान इस प्रकार हैं ;

(क) 'सेवाओं का निर्यात' को आईजीएसटी एक्ट की धारा 2(6) में परिभाषित किया गया है जिसमें वे पांच शर्तें दी गई हैं जो कि निर्यात सेवा के रूप में अर्हता हेतु किसी आपूर्ति के लिए आवश्यक है ;

- (i) सेवा का आपूर्तिकर्ता भारत में अवस्थित हो;
- (ii) सेवा का प्राप्तकर्ता भारत के बाहर अवस्थित हो;
- (iii) सेवा की आपूर्ति का स्थान भारत के बाहर हो;
- (iv) ऐसी सेवा के लिए भुगतान सेवा के आपूर्तिकर्ता को परिवर्तनीय विदेशी मुद्रा में प्राप्त हुआ हो;
- (v) सेवा का आपूर्तिकर्ता और सेवा का प्राप्तकर्ता धारा 8 के स्पष्टीकरण 1 के अनुसार केवल मात्र अलग-अलग प्रतिष्ठान न हो ;

.....2/-

‘सेवा के निर्यात’ पर विचार करने के लिए सेवा के निर्यात से संबंधित पांच शर्तों में एक शर्त यह भी है कि सेवा की आपूर्ति का स्थान भारत के बाहर हो ।

(ख) आईजीएसटी एक्ट की धारा 13 (9) के अंतर्गत यह प्रावधान है कि जहां सेवा का आपूर्तिकर्ता का स्थान या सेवा के प्राप्तकर्ता का स्थान भारत के बाहर हो वस्तुओं के परिवहन की सेवा की आपूर्ति का स्थान, मेल या कूरियर से भिन्न, वह स्थान होगा जो कि ऐसी वस्तुओं का गंतव्य स्थान हो । बहरहाल जहां आपूर्तिकर्ता का स्थान या सेवाओं की प्राप्तकर्ता का स्थान भारत में हो वहां आपूर्ति का स्थान आईजीएसटी एक्ट की धारा 12 (8) के तहत अधिशासित होता है जिसमें यह निर्दिष्ट है कि आपूर्ति का स्थान सेवा के प्राप्तकर्ता के स्थान को माना जाएगा बशर्ते की वह पंजीकृत हो ; यदि वह पंजीकृत नहीं है तो आपूर्ति का स्थान वह स्थान माना जाएगा जहां इन वस्तुओं को परिवहन के लिए हस्तगत किया जाएगा ।

3. उपर्युक्त बातों को देखते हुए, अंतरराष्ट्रीय ग्राहकों को अंतरीक्ष कारपोरेशन लिमिटेड के द्वारा आपूर्ति की जाने वाली उपग्रह प्रक्षेपण सेवा कि आपूर्ति आईजीएसटी एक्ट, 2017 की धारा 13 (9) के अनुसार भारत के बाहर मानी जाएगी और ऐसी आपूर्ति आईजीएसटी एक्ट की धारा (6) की शर्तों को पूरा करती है और इस प्रकार यह सेवा का निर्यात मानी जाएगी और आईजीएसटी एक्ट की धारा 16 के अनुसार यह जीरो रेटिड होगी । जहां अंतरीक्ष कारपोरेशन लिमिटेड के द्वारा उपग्रह प्रक्षेपण की सेवा किसी ऐसे व्यक्ति को प्रदान की जाती है जो कि भारत में अव्यवस्थित है तो इस उपग्रह प्रक्षेपण सेवा की आपूर्ति का स्थान आईजीएसटी की धारा 12 (8) के द्वारा अधिशासित होगी और इस पर जीसीएसटी एक्ट, यूजीएसटी एक्ट या आईजीएसटी एक्ट, जो भी लागू हो उसके अंतर्गत कर लगाया जाएगा ।

4. इस परिपत्र के लागू होने पर यदि कोई कठिनाई आ रही हो, तो उसे बोर्ड की जानकारी में लाया जाए ।

भवदीया,

(रचना)

टेक्निकल ऑफिसर (टीआरयू)

ई-मेल : rachna.irs@gov.in

**F. No. CBEC/20/16/03/2017- GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing**

New Delhi, Dated the 25th May, 2018

To,

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

Madam/Sir,

Subject: Applicability of Integrated Goods and Services Tax (integrated tax) on goods supplied while being deposited in a customs bonded warehouse-reg.

Attention is invited to Circular No. 46/2017-Customs dated 24.11.2017 whereby the applicability of integrated tax on goods transferred/sold while being deposited in a warehouse (hereinafter referred to as the “warehoused goods”) was clarified.

2. Various references had been received by the Board on the captioned issue which has now been re-examined by the Board.

3. It is seen that the “transfer/sale of goods while being deposited in a customs bonded warehouse” is a common trade practice whereby the importer files an into-bond bill of entry and stores the goods in a customs bonded warehouse and thereafter, supplies such goods to another person who then files an ex-bond bill of entry for clearing the said goods from the customs bonded warehouse for home consumption.

4. It may be noted that as per sub-section (2) of section 7 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”), the supply of goods imported into the territory of India, till they cross the customs frontiers of India, is treated as a supply of goods in the course of inter-State trade or commerce. Further, the proviso to sub-section (1) of section 5 of the IGST Act provides that the integrated tax on goods imported into India would be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the “CTA”). Thus, in case of supply of the warehoused goods, the point of levy would be the point at which the duty is collected under section 12 of the Customs Act, 1962 (hereinafter referred to as the “Customs Act”) which is at the time of clearance of such goods under section 68 of the Customs Act.

5. It may also be noted that sub-section (8A) has been inserted in section 3 of the CTA vide section 102 of the Finance Act, 2018, with effect from 31st March, 2018, so as to provide that the valuation for the purpose of levy of integrated tax on warehoused imported goods at the time of clearance for home consumption would be either the transaction value or the value as per sub-section (8) of section 3 of the CTA (i.e. valuation done at the time of filing the into-bond bill of entry), whichever is higher.

6. It is therefore, clarified that integrated tax shall be levied and collected at the time of final clearance of the warehoused goods for home consumption i.e., at the time of filing the ex-bond bill of entry and the value addition accruing at each stage of supply shall form part of the value on which the integrated tax would be payable at the time of clearance of the warehoused goods for home consumption. In other words, the supply of goods before their clearance from the warehouse would not be subject to the levy of integrated tax and the same would be levied and collected only when the warehoused goods are cleared for home consumption from the customs bonded warehouse.

7. This Circular would be applicable for supply of warehoused goods, while being deposited in a customs bonded warehouse, on or after the 1st of April, 2018.

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

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

(Upender Gupta)
Commissioner (GST)