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: *"Heading 9996 (Recreational, cultural and sporting services) - ...* *(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%* *(iv)…* *(v) Gambling. - 14 %"* 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	1. 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? 2. 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) 3. What will be the rate of tax for bakery items supplied where eating place is attached - manufacturer for the purpose of composition levy?	1. Price/ declared tariff does not include taxes. 2. Room rent in hospitals is exempt. 3. 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 ofthe 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
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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)
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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

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

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
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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) *refers*]
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 *refers*]
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 *refers*].
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 *refers*]. (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.

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)
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Circular No. 33/07/2018-GST

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.

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)

Annexure A					
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 Comissioner	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	4th 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	Bhubaneshwar	C.R. Building, (GST Bhawan),Rajaswa Vihar, Bhubaneshwar-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 Byepass 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 ------

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

Circular No. 37/11/2018-GST

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)

Circular No. 40/14/2018-GST

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									
SL. NO.	**LR NO**	**LR DATE**	**INVOICE/ BOS/DC NO**	**INVOICE/BOS/DC DATE**	**CONSIGNOR**	**CONSIGNEE**	**COMMODITY**	**VALUE**	**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
	Prima facie 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
	Prima facie, 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	HSN code	Quantity	Total value (Rs.)	Central tax	State tax / Union territory tax	Integrated tax	Cess	Central tax	State tax / Union territory tax	Integrated tax	Cess
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.NO	**DESCRIPTION OF GOODS**	**HSN CODE**	**QUANTITY**	**TOTAL VALUE (RS.)**	**CENTRAL TAX**	**STATE TAX/-UNION TERRITORY TAX**	**INTEGRATED TAX**	**CESS**	**CENTRAL TAX**	**STATE TAX/UNION TERRITORY TAX**	**INTEGRATED TAX**	**CESS**
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	**DESCRIPTION OF GOODS**	**HSN CODE**	**QUANTITY**	**TOTAL VALUE (Rs.)**	**CENTRAL TAX**	**STATE TAX/UNION TERRITO**	**INTEGRATED TAX**	**CESS**	**CENTRAL TAX**	**STATE TAX/UNION TERRITO**	**INTEGRATED TAX**	**CESS**

						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 number ……dated…… having value of ……rupees 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 value ……rupees and a security of ……rupees 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 Occupation
Place

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.NO	**DESCRIPTION OF GOODS**	**HSN CODE**	**QUANTITY**	**TOTAL VALUE (Rs.)**	**CENTRAL TAX**	**STATE TAX / UNION TERRITORY TAX**	**INTEGRATED TAX**	**CESS**	**CENTRAL TAX**	**STATE TAX / UNION TERRITORY TAX**	**INTEGRATED TAX**	**CESS**
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.NO	**DESCRIPTION OF GOODS**	**HSN CODE**	**QUANTITY**	**TOTAL VALUE (Rs.)**	**CENTRAL TAX**	**STATE TAX / UNION TERRITORY TAX**	**INTEGRATED TAX**	**CESS**	**CENTRAL TAX**	**STATE TAX / UNION TERRITORY TAX**	**INTEGRATED TAX**	**CESS**
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	**DESCRIPTION OF GOODS**	**HSN CODE**	**QUANTITY**	**TOTAL VALUE (Rs.)**	**CENTRAL TAX**	**STATE TAX / UNION TERRITORY TAX**	**INTEGRATED TAX**	**CESS**	**CENTRAL TAX**	**STATE TAX / UNION TERRITORY TAX**	**INTEGRATED TAX**	**CESS**
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 sub-section (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 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, 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.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

2) CALCULATION OF PENALTY

					RATE OF TAX				PENALTY AMOUNT			
SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs	CENTRAL TAX	STATE TAX / UNION TER	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TER	INTEGRATED TAX	CESS

				.)		RITORY TAX				RITORY 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	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
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	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
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

					RATE OF TAX				TAX AMOUNT			
SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
1	2	3	4	5	6	7	8	9	10	11	12	13

(2) CALCULATION OF PENALTY

					RATE OF TAX	PENALTY AMOUNT

SL.NO	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
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	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
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	DESCRIPTION OF GOODS	HSN CODE	QUANTITY	TOTAL VALUE (Rs.)	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS	CENTRAL TAX	STATE TAX / UNION TERRITORY TAX	INTEGRATED TAX	CESS
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 theCGST 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 theCGST 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 ofcentral excise duty, service tax or wrongly availed CENVAT credit thereof under the existing lawarising 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 assessees under the existing law in cases where such assessees are 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. <u>Providing statement of invoices while submitting the refund application:</u>

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. <u>No mention of UINs on Invoices:</u>

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)

Circular No.44/18/2018-CGST

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)

Circular No. 46/20/2018-GST

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

North Block, New Delhi
Dated the 6th June, 2018

To

The Principal Chief Commissioner/ Principal Directors General/Chief Commissioner/ Directors General/Principal Commissioner/ Commissioner of Central Excise and Central Tax (All) / Director General of Systems

Madam / Sir,

Subject: Applicable GST rate on Priority Sector Lending Certificates (PSLCs), Renewable Energy Certificates (RECs) and other similar scrips -regarding

Representations have been received seeking clarification regarding the classification and applicable GST rate on the Renewable Energy Certificates (RECs) and Priority Sector Lending Certificates (PSLCs).

2. Earlier, in response to a FAQ, it was clarified (vide advertisement dated 27.07.2017), that MEIS and other scrips like SEIS and IEIS are goods classified under heading 4907 and attract 12% GST, which is the general GST rate for goods falling under heading 4907. Subsequently, the duty credit scrips classifiable under 4907 were exempted from GST, while stock, share or bond certificates and similar documents of title [other than Duty Credit Scrips], classifiable under heading 4907, attract 12% GST.

3. Later on, Circular No. 34/8/2018- GST dated 01.03.2018 (S.No.3) was issued clarifying that PSLCs are taxable as goods at a standard rate of 18 % under the residual entry S. No. 453 of Schedule III of notification No. 01/2017-Central Tax (Rate).

4. As a result, there is lack of clarity on the applicable rate of GST on various scrips/ certificates like RECs, PSLCs etc.

5. The matter has been re-examined. GST rate of 18 % under the residual entry at S.No. 453 of Schedule III of notification No. 01/2017-Central Tax (Rate) applies only to those goods which are not covered under any other entries of Schedule I, II, IV, V, or VI of the notification. In other words, if any goods are covered under any of the entries of Schedule I, II, IV, V, or VI, the GST rate applicable on them will be decided accordingly, without resorting to the residual entry 453 of Schedule III.

6. As such, various certificates like RECs, PSLCs etc are classified under heading 4907 and will accordingly attract GST @ 12 %, though duty paying scrips classifiable under the same heading will attract Nil GST{under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, as amended *vide* Notification No. 35/2017-Central Tax (Rate) dated 13.10.2017}.

7. Accordingly, in modification of S.No. 3 of Circular No. 34/8/2018- GST dated 01.03.2018, it is hereby clarified that Renewable Energy Certificates (RECs) and Priority Sector Lending Certificates (PSLCs) and other similar documents are classifiable under heading 4907 and attract 12% GST. The duty credit scrips, however, attract Nil GST under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017.

8. If any difficulty is faced, the same should be brought to the notice of the Board. Hindi version would follow.

Yours faithfully,

(Dr. Ajay K. Chikara)
Technical Officer
Tax Research Unit

Circular No. 47/21/2018-GST

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 08th June, 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 of certain issues under GST– regarding

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

Sl. No.	**Issue**	**Clarification**
1	Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?	1.1 Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM. 1.2 It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis

		shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short). 1.3 However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components. In such cases, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business.
2	How is servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, to be treated under GST?	2.1 The taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case. 2.2 Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.
3	In case of auction of tea, coffee, rubber etc., whether the books of accounts are required to be maintained at every place of business by the principal and the auctioneer, and whether they are eligible to avail input tax credit?	3.1 The requirement of maintaining the books of accounts at the principal place of business and additional place(s) of business is clarified as below: (a) For the purpose of auction of tea, coffee, rubber, etc, the principal and the auctioneer may declare the 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. For the purpose of supply of tea through a private treaty, the principal and an auctioneer may also comply with the said provisions. (b) The principal and the auctioneer for the

		purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, are required to maintain the books of accounts relating to each and every place of business in that place itself in terms of 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) The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall intimate their jurisdictional officer in writing about the maintenance of books of accounts relating to the additional place(s) of business at their principal place of business. 3.2 It is further clarified that the principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall be eligible to avail input tax credit subject to the fulfilment of other provisions of the CGST Act read with the rules made thereunder.
4	In case of transportation of goods by railways, whether goods can be delivered even if the e-way bill is not produced at the time of delivery?	As per proviso to rule 138(2A) of the Central Goods and Services Tax Rules, 2017 (CGST Rules for short), the railways shall not deliver the goods unless the e-way bill is produced at the time of delivery.
5	Whether e-way bill is required in the following cases- (i) Where goods transit through another State while moving from one area in a State to another area in the same State.	(i) It may be noted that e-way bill generation is not dependent on whether a supply is inter-State or not, but on whether the movement of goods is inter-State or not. Therefore, if the goods transit through a second State while moving from one place in a State to another place in the same State, an e-way bill is required to be generated.

	(ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State.	(ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State, there is no requirement to generate an e-way bill, if the same has been exempted under rule 138(14)(d) of the CGST Rules.

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 this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Commissioner (GST)

Circular No. 48/22/2018-GST

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 14th June, 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 of certain issues under GST– regarding

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

Sl. No.	Issue	Clarification
1.	Whether services of short-term accommodation, conferencing, banqueting etc. provided to a Special Economic Zone (SEZ) developer or a SEZ unit should be treated as an inter-State supply (under section 7(5)(b) of the IGST Act, 2017) or an intra-State supply (under section 12(3)(c) of the IGST Act, 2017)?	1.1 As per section 7(5) (b) of the Integrated Goods and Services Tax Act, 2017 (IGST Act in short), the supply of goods or services or both to a SEZ developer or a SEZ unit shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce. Whereas, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ Union territory, it would be

		treated as an intra-State supply. 1.2 It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision. 1.3 In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies of goods or services or both made to a SEZ developer or a SEZ unit, which states that such supplies shall be treated as inter-State supplies. 1.4 It is therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply.
2.	Whether the benefit of zero rated supply can be allowed to all procurements by a SEZ developer or a SEZ unit such as event management services, hotel and accommodation services, consumables etc?	2.1 As per section 16(1) of the IGST Act, "zero rated supplies" means supplies of goods or services or both to a SEZ developer or a SEZ unit. Whereas, section 16(3) of the IGST Act provides for refund to a registered person making zero rated supplies under bond/LUT or on payment of integrated tax, subject to such conditions, safeguards and procedure as may be prescribed. Further, as per the second proviso to rule 89(1) of the Central Goods and Services Tax Rules, 2017 (CGST Rules in short), in respect of supplies to a SEZ developer or a SEZ unit, the application for refund shall be filed by the: (a) supplier of goods after such goods have been admitted in full in the SEZ for authorised operations, as endorsed by the specified officer of the Zone; (b) supplier of services along with such evidences regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone. 2.2 A conjoint reading of the above legal provisions reveals that the supplies to a SEZ developer or a SEZ unit shall be zero rated and the supplier shall be eligible for refund of unutilized input tax credit or integrated tax paid, as the case

		may be, only if such supplies have been received by the SEZ developer or SEZ unit for authorized operations. An endorsement to this effect shall have to be issued by the specified officer of the Zone. 2.3 Therefore, subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier.
3.	Whether independent fabric processors (job workers) in the textile sector supplying job work services are eligible for refund of unutilized input tax credit on account of inverted duty structure under section 54(3) of the CGST Act, 2017, even if the goods (fabrics) supplied are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017?	3.1 Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 specifies the goods in respect of which refund of unutilized input tax credit (ITC) on account of inverted duty structure under section 54(3) of the CGST Act shall not be allowed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies of such goods. However, in case of fabric processors, the output supply is the supply of job work services and not of goods (fabrics). 3.2 Hence, it is clarified that the fabric processors shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017.

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 this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Commissioner (GST)

Circular No. 49/23/2018-GST

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 21st June, 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: Modifications to the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in Circular No. 41/15/2018-GST dated 13.04.2018 –reg.

Circular No. 41/15/2018-GST dated 13.04.2018 was issued to clarify the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.

2. In order to clarify certain issues regarding the specified procedure in this regard and in order to ensure uniform 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 Central Goods and Services Tax Act, hereby issues the following modifications to the said Circular:-

(i) In para 2 (e) of the said Circular, the expression "three working days" may be replaced by the expression "three days";

(ii) The statement after paragraph 3 in **FORM GST MOV-05** should read as: "In view of the above, the goods and conveyance(s) are hereby released on (DD/MM/YYYY) at ____ AM/PM."

3.0 Further, it is stated that as per rule 138C (2) of the Central Goods and Services Tax Rules, 2017, where the physical verification of goods being transported on any conveyance has been done during transit at one place within a State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be

carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently. Since the requisite FORMS are not available on the common portal currently, any action initiated by the State tax officers is not being intimated to the central tax officers and *vice-versa,* doubts have been raised as to the procedure to be followed in such situations.

3.1 In this regard, it is clarified that the hard copies of the notices/orders issued in the specified FORMS by a tax authority may be shown as proof of initiation of action by a tax authority by the transporter/registered person to another tax authority as and when required.

3.2 Further, it is clarified that only such goods and/or conveyances should be detained/confiscated in respect of which there is a violation of the provisions of the GST Acts or the rules made thereunder.

> *Illustration:* Where a conveyance carrying twenty-five consignments is intercepted and the person-in-charge of such conveyance produces valid e-way bills and/or other relevant documents in respect of twenty consignments, but is unable to produce the same with respect to the remaining five consignments, detention/confiscation can be made only with respect to the five consignments and the conveyance in respect of which the violation of the Act or the rules made thereunder has been established by the proper officer.

4. It is requested that suitable 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)

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

Room No. 146G, North Block,
New Delhi, 31th July 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: Withdrawal of Circular No. 28/02/2018-GST dated 08.01.2018 as amended vide Corrigendum dated 18.01.2018 and Order No 02/2018–Central Tax dated 31.03.2018 – reg.

The Circular No. 28/02/2018-GST, dated 08.01.2018 as amended vide Corrigendum dated 18.01.2018 was issued to clarify GST rate applicable on catering services, i.e., supply of food or drink in a mess or canteen in an educational institute. Also, Order No 02/2018-Central Tax dated 31.03.2018, was issued to clarify GST rate on supply of food and/or drinks by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, in trains or at platforms (static units).

2. Consequent to the decisions of 28th GST Council Meeting held on 21.07.2018, the contents of the Circular No. 28/02/2018-GST dated 08.01.2018 as amended vide Corrigendum dated 18.01.2018 have been incorporated in Sl. No. 7 (i) of the Notification No. 13/2018-Central Tax(Rate), dated 26.07.2018 amending the Notification No. 11/2017-Central Tax (Rate) dated 28th June 2017.

3. Also, the contents of the Order No 02/2018-Central Tax dated 31.03.2018 have been incorporated in Sl. No. 7(ia) of the Notification No. 13/2018-Central Tax(Rate), dated 26.07.2018 amending the Notification No. 11/2017-Central Tax (Rate) dated 28th June 2017.

4. Hence, Circular No. 28/02/2018-GST, dated 08.01.2018 as amended vide Corrigendum dated 18.01.2018 and Order No 02/2018-Central Tax dated 31.03.2018 is withdrawn w.e.f 27.07.2018. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

Yours Faithfully,

Harish Y N
OSD (TRU)
Email: harish.yn@gov.in

F. No. 354/220/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit
****

Room No. 146, North Block,
New Delhi, 31st July, 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: Applicability of GST on ambulance services provided to Government by private service providers under the National Health Mission (NHM) – Reg.

I am directed to invite your attention to the Circular No. 210/2/2018- Service Tax, dated 30th May, 2018. The said Circular has been issued in the context of service tax exemption contained in notification No. 25/2012- Service Tax dated 20.06.2012 at Sl. No. 2 and 25(a). The Circular states, inter alia, that the service of transportation in ambulance provided by State Governments and private service providers (PSPs) to patients are exempt under notification No. 25/2012- Service Tax dated 20.06.2012 and that ambulance service provided by PSPs to State Governments under National Health Mission is a service provided to Government by way of public health and hence exempted under notification No. 25/2012- Service Tax dated 20.06.2012.

2. The service tax exemption at Sl. No.2 of notification No. 25/2012 dated 20.06.2012 has been carried forward under GST in the identical form vide Sl. No. 74 of notification No. 12/2017- CT (R) dated 28.06.2017. The service tax exemption at serial No. 25(a) of notification No. 25/2012 dated 20.06.2012 has also been substantially, although not in the same form, continued under GST vide Sl. No. 3 and 3A of the notification No. 12/2017- CT (R) dated 28.06.2017. The said exemption entries under Service Tax and GST notification read as under.

Service Tax	GST
Sl. No. 2: (i) Health care services by a clinical establishment, an authorized medical practitioner or para-medics; (ii) Services provided by way of transportation of a patient in an ambulance, other than those specified in (i) above.	Sl. No. 74: Services by way of- (a) health care services by a clinical establishment, an authorized medical practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.

Sl. No. 25(a): Services provided to Government, a local authority or a governmental authority by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation	Sl. No. 3: Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
	Sl. No. 3A: Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

3. Functions of 'Health and sanitation' is entrusted to Panchayats under Article 243G of the Constitution of India read with Eleventh Schedule. Function of 'Public health' is entrusted to Municipalities under Article 243W of the Constitution read with Twelfth schedule to the Constitution. Thus ambulance services are an activity in relation to the functions entrusted to Panchayats and Municipalities under Articles 243G and 243 W of the Constitution.

4. In view of the above, it is clarified that the clarification contained in the Circular No. 210/2/2018- Service Tax dated 30th May, 2018 with regard to the services provided by Government and PSPs by way of transportation of patients in an ambulance is applicable for the purpose of GST also, as the said services are specifically exempt under notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 vide Sl. No. 74.

5. As regards the service provided by PSPs to the State Governments by way of transportation of patients on behalf of the State Governments against consideration in the form of fee or otherwise charged from the State Government, it is clarified that the same would be exempt under-

a. Sl. No. 3 of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 if it is a pure service and not a composite supply involving supply of any goods, and

b. Sl. No. 3A of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 if it is a composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply.

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

Yours Faithfully,

31 July 2018

Susanta Mishra
Technical Officer (TRU)
Email:susanta.mishra87@gov.in
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Enclosure:
Circular No. 210/2/2018- Service Tax (F. No. 137/51/2016- Service Tax, dated 30th May, 2018)

Circular 210 /2 /2018-Service Tax

F. No 137/51/2016 Service Tax
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
Service Tax Wing
***

New Delhi, the 30th May, 2018

To,

All Principal Chief /Chief Commissioners of Central Excise and GST
All Principal Directors General/ Directors General / Chief Commissioner AR CESTAT
All Principal Commissioners/Commissioners of Central Excise & GST/AR CESTAT
All Principal Additional Directors General/ Additional Directors General

Madam/Sir,

Subject: Applicability of service tax on ambulance services provided to government by private service providers under the National Health Mission(NHM)

I am directed to draw your attention to a reference of the Ministry of Health & Family Welfare, Government of India on the above subject and analyse the manner in which the taxability has to be determined in such cases.

2. It has been stated that under the National Health Mission(NHM), a flagship programme of the Government of India, the Central Government provides technical and financial support to states to strengthen healthcare systems including for free ambulance services (Dial 102/108 services). Dial 108 is the emergency response system primarily designed to attend to patients of critical care, trauma and accident victims etc., while Dial 102 services essentially are for basic patient transport aimed to cater the needs of pregnant women and children, though other categories are also taking benefit and are not excluded. Many states are operating the ambulance service on an outsourced model and these services are funded under the NHM and provided free of cost to all patients. In this connection the Ministry of Health & Family Welfare, has requested for a clarification whether the private service provider(PSP) is liable for payment of service tax.

3.1 The matter has been examined. It is observed that this entire project involves three legs of activities, one by the Government for the public, second by the PSP for the public and third, by the PSP for the Government. In respect of the first and the second legs of activity i.e. the ambulance services being provided by the Government and PSP to the patients, neither the State government nor the PSP charges any fee from the patients who avail of these ambulance services. The PSP however charges a fee from the State government for carrying out the third activity.

3.2 Any activity carried out by one person for another without any consideration will not be covered by the definition of 'service' in section 65(44) B of the Finance Act, 1994. Even if a consideration was charged, by virtue of entry 2(ii) of notification no 25/2012- Service Tax dated 20th June, 2012, services provided by way of transportation of a patient in an ambulance, other than health care services by a clinical establishment, an authorized medical practitioner or para-medics, are exempted from the whole of the service tax leviable thereon. Thus the activities provided by the State government and the PSP to patients are not leviable to service tax.

3.3 As regards the activity undertaken by the PSP for the State government for which consideration is charged, attention is invited to sl.no 25(a) of the notification no 25/2012 - Service Tax dated 20th June, 2012. The scope of the relevant exemption, in different time periods, was as follows: -

In the period from 01.07.2012 to 10.07.2014

"Services provided to Government, a local authority or a governmental authority by way of "(a) carrying out any activity in relation to any function ordinarily entrusted to a municipality in relation to water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or……."

In the period from 11.07.2014 to 30.06.2017

"Services provided to Government, a local authority or a governmental authority by way of (a) water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation……."

3.4 Thus it follows that, exemption is available, interalia, to services provided to Government, a local authority or a governmental authority, by way of public health.

3.5 The phrase "public health" is a general term and will cover a number of activities which ensure the health of the public. In the Ministry of Health & Family Welfare's reference, it has been stated that this activity of providing free ambulance services by the states is funded under the National Health Mission(NHM). One of the core values of the NHM enlisted by the Framework for implementation of National Health Mission (2012-2017) is to strengthen public health systems as a basis for universal access and social protection against the rising costs of health care. As a part of its goals, outcomes and strategies the framework has categorically stated that NHM will essentially focus on strengthening primary health care across the country. The Framework further states that assured free transport in the form of Emergency Response System (ERS) and Patient Transport Systems (PTS) is an essential requirement of the public hospital and one which would reduce the cost barriers to institutional care.

3.6 Thus the provision of ambulance services to State governments under the NHM is a service provided to government by way of public health and hence exempted under notification no 25/2012-Service Tax dated 20.06.2012.

Yours faithfully,

30/05/18

(Pallabika Dutta)
Deputy Commissioner & OSD Service Tax
E-mail- commr.st-cbec@nic.in
Phone-011- 23095438

Circular No.52/26/2018-GST

F.No.354/255/2018-TRU (Part-2)
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)
*****

North Block, New Delhi
Dated, 9th August, 2018

To

Principal Chief Commissioners/ Principal Directors General,
Chief Commissioners/ Directors General,
Principal Commissioners/ Commissioners of Central Excise and Central Tax (All),
All under CBEC.

Madam/ Sir,

Subject: Clarification regarding applicability of GST on various goods and services–reg.

Representations have been received seeking clarification in respect of applicable GST rates on the following items:

(i) Fortified Toned Milk
(ii) Refined beet and cane sugar
(iii) Tamarind Kernel Powder (Modified & Un Modified form)
(iv) Drinking water
(v) Plasma products
(vi) Wipes using spun lace non-woven fabric
(vii) Real Zari Kasab (Thread)
(viii) Marine Engine
(ix) Quilt and comforter
(x) Bus body building as supply of motor vehicle or job work
(xi) Disc Brake Pad

2. The matter has been examined. The issue-wise clarifications are discussed below:

3.1 **Applicability of GST on Fortified Toned Milk:** Representations have been received seeking clarification regarding applicability of GST on Fortified Toned Milk.

3.2 Milk is classified under heading 0401 and as per S.No. 25 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, fresh milk and pasteurised milk, including separated milk, milk and cream, not concentrated nor containing added sugar or other sweetening matter, excluding Ultra High Temperature (UHT) milk falling under tariff head 0401 attracts NIL rate of GST. Further, as per HSN Explanatory Notes, milk enriched with vitamins and minerals is

classifiable under HSN code 0401. Thus, it is clarified that toned milk fortified (with vitamins 'A' and 'D') attracts NIL rate of GST under HSN Code 0401.

4.1 **Applicable GST rate on refined beet and cane sugar:** Doubts have been raised regarding GST rate applicable on refined beet and cane sugar. *Vide* S. No. 91 of schedule I of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, 5% GST rate has been prescribed on all kinds of beet and cane sugar falling under heading 1701.

4.2 Doubts seem to have arisen in view of S. No. 32 A of the Schedule II of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, which prescribes 12% GST rate on "All goods, falling under tariff items 1701 91 and 1701 99 including refined sugar containing added flavouring or colouring matter, sugar cubes (other than those which attract 5% or Nil GST)".

4.3 It is clarified that by virtue of specific exclusion in S. No. 32 A, any sugar that falls under 5% category [at the said S. No. 91 of schedule I of notification No.1/2017-Central Tax (Rate) dated 28.06.2017] gets excluded from the S. No. 32 A of Schedule II. As all kinds of beet and cane sugar falling under heading 1701 are covered by the said entry at S. No. 91 of Schedule I, these would get excluded from S. No. 32 A of Schedule II, and thus would attract GST @ 5%.

4.4 Accordingly, it is clarified that beet and cane sugar, including refined beet and cane sugar, will fall under heading 1701 and attract 5% GST rate.

5.1 **Applicable GST rate on treated (modified) tamarind kernel powder and plain (unmodified) tamarind kernel powder :** Representation have been received seeking clarification regarding GST rate applicable on treated (modified) tamarind kernel powder and plain (unmodified) tamarind kernel powder.

5.2 There are two grades of Tamarind Kernel Powder (TKP):- Plain (unmodified) form (hot, water soluble) and Chemically treated (modified) form (cold, water soluble).

5.3 As per S. No. 76 A of schedule I of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, 5% GST rate was prescribed on Tamarind Kernel powder falling under chapter 13. However, certain doubts have been expressed regarding GST rate on Tamarind kernel powder, as the said notification does not specifically mention the word "*modified*".

5.4 As both plain (unmodified) tamarind kernel powder and treated (modified) tamarind kernel powder fall under chapter 13, it is hereby clarified that both attract 5% GST in terms of the said notification.

6.1 **Applicability of GST on supply of safe drinking water for public purpose:** Representations have been received seeking clarification regarding applicability of GST on supply of safe drinking water for public purpose.

6.2 Attention is drawn to the entry at S. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, by virtue of which water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container] falling under HS code 2201 attracts NIL rate of GST.

6.3 Accordingly, supply of water, other than those excluded from S. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, would attract GST at "NIL" rate. Therefore, it is clarified that supply of drinking water for public purposes, if it is not supplied in a sealed container, is exempt from GST.

7.1 **GST rate on Human Blood Plasma:** References have been received about the varying practices being followed in different parts of the country regarding the GST rates on "human blood plasma".

7.2 Plasma is the clear, straw coloured **liquid** portion of blood that remains after red blood cells, white blood cells, platelets and other cellular components have been removed. As per the explanatory notes to the Harmonized System of Nomenclature (HSN), plasma would fall under the description antisera and other blood fractions, whether or not modified or obtained by means of biotechnological processes and would fall under HS code 3002.

7.3 Normal human plasma is specifically mentioned at S. No. 186 of List I under S. No. 180 of Schedule I of the notification No. 1/2017-Central Tax (Rate) dated 28th June, 2017, and attracts 5% GST. Other items falling under HS Code 3002 (including plasma products) would attract 12% GST under S. No. 61 of Schedule II of the said notification, not specifically covered in the said List I.

7.4 Thus, a harmonious reading of the two entries would mean that normal human plasma would attract 5% GST rate under List I (S. No. 186), whereas plasma products would attract 12% GST rate, if otherwise not specifically covered under the said List.

8.1 **Appropriate classification of baby wipes, facial tissues and other similar products**: Varied practices are being followed regarding the classification of baby wipes, facial tissues and other similar products, and references have been received requesting for correct classification of these products. As per the references, these products are currently being classified under different HS codes namely 3307, 3401 and 5603 by the industry.

8.2 Commercially, wipes are categorized into various types such as baby wipes, facial wipes, disinfectant wipes, make-up remover wipes etc. These products are generally made by using non-woven fabrics of viscose and polyviscous blend and are sprinkled with demineralized water and various chemicals and fragrances, which impart the essential character to the product. The base raw materials are moisturising and cleansing agents, preservatives, aqua base, cooling agents, perfumes etc. The textile material is present as a carrying medium of these cleaning/wiping components.

8.3 According to the General Rules for Interpretation [GRI- 3(b)] of the First Schedule to the Customs Tariff Act (CTA), 1975, *"Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable."* Since primary function of the article should be taken into consideration while deciding the classification, it is clear that the essential character of the wipes in the instant case is imparted by the components which are to be mixed with the textile material.

8.4 As per the explanatory notes to the HSN, the HS code 5603 clearly excludes non-woven, impregnated, coated or covered with substances or preparations such as perfumes or cosmetics, soaps or detergents, polishes, creams or similar preparations. The HSN is reproduced as follows : *"The heading also **excludes**:*

Nonwoven, impregnated, coated or covered with substances or preparations [i.e. perfumes or cosmetics (Chapter 33), soaps or detergents (heading 3401), polishes, creams, or similar preparations (heading 3405), fabric, softeners (heading 3809)] where the textile material is present merely as a carrying medium. Further, HS code 3307 covers wadding, felt and non-woven, impregnated, coated or covered with perfumes or cosmetics. The HS code 3401, would cover paper, wadding, felt and non-woven impregnated, coated or covered with soap or detergent whether or not perfumed".

8.5 Further, as per the explanatory notes to the HSN, the heading 3307 includes *wadding, felt and nonwovens impregnated, coated or covered with perfume or cosmetics*. Similarly, as per explanatory notes to the HSN, the heading 3401 includes *wipes made of paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent, whether or not perfumed or put up for retail sale.*

8.6 Thus, the wipes of various kinds (as stated above) are classifiable under heading 3307 or 3401 depending upon their constituents as discussed above. Therefore, if the baby wipes are impregnated with perfumes or cosmetics, then the same would fall under HS code 3307 and would attract 18% GST rate. Similarly, if they are coated with soap or detergent, then it would fall under HS code 3401 and would attract 18% GST.

9.1 **Classification and applicable GST rate on real zari Kasab (thread):** Certain doubts have been raised regarding the classification and applicable GST rate on Kasab thread (a metallised yarn) as yarn falling under heading 5605 attracts 12% GST, as per entry 137 of the Schedule-II-12% of the notification No.01/2017-Central Tax (rate) dated 28.06.2017, while specified embroidery product falling under 5809 and 5810 attracts GST @ 5%, as per entry no. 220 of the Schedule-I-5% of the above-mentioned notification.

9.2 The heading 5809 and 5810 cover embroidery and zari articles. These heading do not cover yarn of any kinds. Hence, while these headings apply to embroidery articles, embroidery in piece, in strips, or in motifs, they do not apply to yarn, including Kasab yarn.

9.3 Further all types of metallised yarns or threads are classifiable under tariff heading 5605. Kasab (yarn) falls under this heading. Under heading 5605, real zari manufactured with silver wire gimped (vitai) on core yarn namely pure silk and cotton and finally gilted with gold would attract 5% GST under tariff item 5605 00 10, as specified at entry no. 218A of Schedule-I-5% of the GST rate schedule. Other goods falling under this heading attract 12% GST. Accordingly, kasab (yarn) would attract 12% GST along with other metallised yarn, whether or not gimped, being textile yarn, combined with metal in the form of thread, strip or powder or covered with metal including imitation zari thread (S. No. 137 of the Schedule-II-12%). Therefore, it is clarified that imitation zari thread or yarn known as "Kasab" or by any other name in trade parlance, would attract a uniform GST rate of 12% under tariff heading 5605.

10.1 **Applicability of GST on marine engine:** Reference has been received seeking clarification regarding GST rates on Marine Engine. The fishing vessels are classifiable under heading 8902, and attract GST @ 5%, as per S. No. 247 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017. Further, parts of goods of heading 8902, falling under any chapter also attracts GST rate of 5%, *vide* S. No. 252 of Schedule I of the said notification. The Marine engine for fishing vessel falling under Tariff item 8408 1093 of the Customs Tariff Act, 1975 would attract a GST rate of 5% by virtue of S. No. 252 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017.

10.2 Therefore, it is clarified that the supplies of marine engine for fishing vessel (being a part of the fishing vessel), falling under tariff item 8408 10 93 attracts 5% GST.

11.1 **Applicable GST rate on cotton quilts under tariff heading 9404-**Scope of the term ***"Cotton Quilt".***

11.2 Cotton quilts falling under tariff heading 9404 attract a GST rate of 5% if the sale value of such cotton quilts does not exceed Rs. 1000 per piece [as per S. No. 257 A of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017]. However, such cotton quilts, with sale value exceeding Rs.1000 per piece attract a GST rate of 12% (as per S. No. 224A of Schedule II of the said notification). Doubts have been raised as to what constitutes cotton quilt, i.e. whether a quilt filled with cotton with cover of cotton, or filled with cotton but cover made of some other material, or filled with material other than cotton.

11.3 The matter has been examined. The essential character of the cotton quilt is imparted by the filling material. Therefore, a quilt filled with cotton constitutes a cotton quilt, irrespective of the material of the cover of the quilt. The GST rate would accordingly apply.

12.1 **Applicable GST rate for bus body building activity:** Representations have been received seeking clarifications on GST rates on the activity of bus body building. The doubts have arisen on account of the fact that while GST applicable on job work services is 18%, the supply of motor vehicles attracts GST @ 28%.

12.2 Buses [motor vehicles for the transport of ten or more persons, including the driver] fall under headings 8702 and attract 28% GST. Further, chassis fitted with engines [8705] and whole bodies (including cabs) for buses [8707] also attract 28% GST. In this context, it is

mentioned that the services of bus body fabrication on job work basis attracts 18% GST on such service. Thus, fabrication of buses may involve the following two situations:

a) Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, and charges the customer for the value of the bus.

b) Bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work).

12.3 In the above context, it is hereby clarified that in case as mentioned at Para 12.2(a) above, the supply made is that of bus, and accordingly supply would attract GST @28%. In the case as mentioned at Para 12.2(b) above, fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.

13.1 **Applicable GST rate on Disc Brake Pad:** Representations have been received seeking clarification on disc brake pad for automobiles. It is stated that divergent practices of classifying these products, in Chapter 68 or heading 8708 are being followed. Chapter 68 attracts a GST rate of 18%, while heading 8708 attracts a GST rate of 28%.

13.2 Parts and accessories of motor vehicles of headings 8701 to 8705 are classified under heading 8708 and attract 28% GST. Further, friction material and articles thereof (for example, sheets, rolls, strips, segments, discs, washers, pads), not mounted, for brakes, for clutches or the like, with a basis of asbestos, of other mineral substances or of cellulose, whether or not combined with textiles or other mineral substances or of cellulose, whether or not combined with textiles or other materials are classifiable under heading 6813 and attract 18% GST.

13.3 In the above context, it is mentioned that as per HSN Explanatory Notes, heading 8708 covers “Brakes (shoe, segment, disc, etc.) and parts thereof (plates, drums, cylinders, mounted linings, oil reservoirs for hydraulic brakes, etc.); servo-brakes and parts thereof, while Chapter 68 covers articles of Stone, Plaster, Cement, Asbestos, Mica or similar materials. Further, HSN Explanatory Notes to the heading 6813 specifically excludes:

i) Friction materials not containing mineral materials or cellulose fibre (e.g., those of cork);

ii) Mounted brake linings (including friction material fixed to a metal plate provided with circular cavities, perforated tongues or similar fittings, for disc brakes) which are classified as parts of the machines or vehicles for which they are designed (e.g. heading 8708).

13.4 Thus, it is clear, in view of the HSN Explanatory Notes that the said goods, namely “Disc Brake pad” for automobiles, are appropriately classifiable under heading 8708 of the Customs Tariff Act, 1975 and would attract 28% GST.

14. Difficulty, if any, may be brought to the notice of the Board immediately. Hindi version shall follow.

Yours faithfully

Dr. Ajay K. Chikara
Technical Officer (TRU)

F.No.354/255/2018-TRU (Part-2)
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)
*****

North Block, New Delhi
Dated, 9th August, 2018

To

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

Madam/Sir,

Subject: Clarification regarding applicability of GST on the petroleum gases retained for the manufacture of petrochemical and chemical products – regarding.

References have been received regarding the applicability of GST on the petroleum gases retained for the manufacture of petrochemical and chemical products during the course of continuous supply, such as Methyl Ethyl Ketone (MEK) feedstock, petroleum gases etc.

2. In this context, it may be recalled that clarifications on similar issues for specific products have already been issued vide circular Nos. 12/12/2017-GST dated 26th October, 2017 and 29/3/2018-GST dated 25th January, 2018. These circulars apply *mutatis mutandis* to other cases involving same manner of supply as mentioned in these circulars. However, references have again been received from some of the manufacturers of other petrochemical and chemical products for issue of clarification on applicability of GST on petroleum gases, 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 (recipient of supply), and 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 petrochemical and chemical products.

3. The GST Council in its 28th meeting held on 21.7.2018 discussed this issue and recommended for issuance of a general clarification for petroleum sector that in such transactions, GST will be payable by the refinery on the value of net quantity of petroleum gases retained for the manufacture of petrochemical and chemical products.

4. Accordingly, it is hereby clarified that, in the aforesaid cases, GST will be payable by the refinery only on the net quantity of petroleum gases retained by the recipient manufacturer for the manufacture of petrochemical and chemical products. Though, the refinery would be liable to pay GST on such returned quantity of petroleum gases, when the same is supplied by it to any other person. It is reiterated that this clarification would be applicable *mutatis mutandis* on other cases involving supply of goods, where feed stock is retained by the recipient and remaining residual material is returned back to the supplier. The net billing is done on the amount retained by the recipient.

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,

Dr. Ajay K. Chikara
Technical Officer (TRU)

Circular No. 54/28/2018-GST

F. No. 354/255/2018-TRU (Part-2)
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

North Block, New Delhi
Dated, 9th August, 2018

To

Principal Chief Commissioners/Principal Directors General,

Chief Commissioners/Directors General,

Principal Commissioners/Commissioners,

All under CBIC.

Madam/Sir,

Subject: Classification of fertilizers supplied for use in the manufacture of other fertilizers at 5% GST rate- reg.

References have been received regarding a clarification as to whether simple fertilizers, such as MOP (Murate of Potash) classified under Chapter 31,and supplied for use in manufacturing of a complex fertilizer, are entitled to the concessional GST rate of 5%, as applicable in general to fertilizers (i.e. fertilizers which are cleared to be used as fertilizers).

2.1 The matter has been examined. Chapter 31 of the Customs Tariff Act, 1975 covers Fertilizers. The fertilizers are mostly used for increasing soil and land fertility, either directly, or by use in manufacturing of complex fertilizers. However, certain fertilizers and similar goods falling under this Chapter may be used for individual purposes like use of molten urea for manufacture of melamine and urea used in manufacturing of urea-formaldehyde resins or organic synthesis.

2.2 In the pre-GST regime, the concessional duty rate was prescribed for fertilizers falling under Chapter 31 of the Tariff (notification No. 12/2012-Central Excise). This concessional rate was applied to goods falling under Chapter 31 which are clearly to be used directly as fertilizers or in the manufacture of other fertilizers, whether directly or through the stage of an intermediate product.

3. In the GST regime, tax structure on fertilizers has been prescribed on the lines of pre-GST tax incidence. The wording of the GST notification is similar to the central excise notification except certain changes to meet the requirements of GST. These changes were necessitated as GST is applicable on the supply of goods while central excise duty was applicable on manufacture of goods. Accordingly, fertilizers falling under heading 3102, 3103, 3104 and 3105, other than those which are clearly not to be used as fertilizers, attract 5% GST [S. No. 182A to 182D of the First schedule to the notification No.1/2017-Central Tax (Rate) dated 28.06.2017]. However, the fertilizers items falling under the above mentioned headings, which are *clearly not to be used as fertilizer* attract *18% GST* [S. No. 42 to 45 of the III schedule to the notification No. 1/2017 Central Tax (Rate)]. The intention has been to provide concessional rate of GST to the fertilizers which are used directly as fertilizers or which are used in the manufacturing of complex fertilizers which are further used as soil or crop fertilizers. The phrase "*other than clearly to be used as fertilizers*" would not cover such fertilizers that are used for making complex fertilizers for use as soil or crop fertilizers.

4. Thus, it is clarified that the fertilizers supplied for direct use as fertilizers, or supplied for use in the manufacturing of other complex fertilizers for agricultural use (soil or crop fertilizers), will attract 5% IGST.

Yours faithfully,

Dr. Ajay K. Chikara
Technical Officer (TRU)

CIRCULAR No. 55/29/2018- GST

F. No. 354/159/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs

New Delhi, the 10th August, 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: Taxability of services provided by Industrial Training Institutes (ITI) - reg.

Representations have been received requesting to clarify the following:

(a) Whether GST is payable on vocational training provided by private ITIs in designated trades and in other than designated trades.
(b) Whether GST is payable on the service, provided by a private Industrial Training Institute for conduct of examination against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination.

2. With regard to the first issue, [Para 1(a) above], it is clarified that Private ITIs qualify as an educational institution as defined under para 2(y) of notification No. 12/2017-CT(Rate) if the education provided by these ITIs is approved as vocational educational course. The approved vocational educational course has been defined in para 2(h) of notification ibid to mean a course run by an ITI or an Industrial Training Centre affiliated to NCVT (National Council for Vocational Training) or SCVT (State Council for Vocational Training) offering courses in designated trade notified under the Apprenticeship Act, 1961; or a Modular employable skill course, approved by NCVT, run by a person registered with DG Training in Ministry of Skill Development. Therefore, services provided by a private ITI in respect of designated trades notified under Apprenticeship Act, 1961 are exempt from GST under Sr. No. 66 of notification No. 12/2017-CT(Rate). As corollary, services provided by a private ITI in respect of other than designated trades would be liable to pay GST and are not exempt.

3. With regard to the second issue, [Para 1(b) above], it is clarified that in case of designated trades, services provided by a private ITI by way of conduct of entrance examination against consideration in the form of entrance fee will also be exempt from GST [Entry (aa) under Sr. No. 66 of notification No. 12/2017-CT(Rate) refers]. Further, in respect of such designated trades, services

provided to an educational institution, by way of, services relating to admission to or conduct of examination by a private ITI will also be exempt [Entry (b(iv)) under Sr. No. 66 of notification No. 12/2017-CT(Rate) refers]. It is further clarified that in case of other than designated trades in private ITIs, GST shall be payable on the service of conduct of examination against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination by such institutions, as these services are not covered by the exemption ibid.

4. As far as Government ITIs are concerned, services provided by a Government ITI to individual trainees/students, is exempt under Sl. No. 6 of 12/2017-CT(R) dated 28.06.2017 as these are in the nature of services provided by the Central or State Government to individuals. Such exemption in relation to services provided by Government ITI would cover both – vocational training and examinations conducted by these Government ITIs.

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

Yours Sincerely,

10.8.2018

(Parmod Kumar)
OSD (TRU II)
Tele No.: 011-23092374
E-mail: parmodkumar.71@gov.in

Circular No.56/30/2018-GST

F. No. 354/290/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax Research Unit
****

North Block, New Delhi
24th August, 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: Clarification regarding removal of restriction of refund of accumulated ITC on fabrics - reg.

Certain doubts have been raised regarding the applicability and intent of notification No. 20/2018-Central Tax (Rate) dated 26th July, 2018 (which seeks to amend notification No. 5/2017-Central Tax (Rate) dated 28.06.2017) relating to the provision for lapsing of input tax credit accumulated on account of inverted duty structure on fabrics for the period upto the 31st July, 2018.

2. The said notification No. 5/2017-Central Tax (Rate) was issued in exercise of powers vested under section 54 of the Central Goods and Services Tax Act, 2017(CGST Act, 2017). It notifies the items on which refund of accumulated input tax credit on account of inverted duty structure is not allowed. Some of the items notified under this notification are fabrics. A total 10 categories of fabrics covered in the notification are as follows:

S. No.	Tariff item, heading, sub-heading or Chapter	Description of Goods
(1)	(2)	(3)
1.	5007	Woven fabrics of silk or of silk waste

2.	5111 to 5113	Woven fabrics of wool or of animal hair
3.	5208 to 5212	Woven fabrics of cotton
4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5.	5407, 5408	Woven fabrics of manmade textile materials
6.	5512 to 5516	Woven fabrics of manmade staple fibres
6A#	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials
6B*	5801	Corduroy fabrics
6C#	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive
7.	60	Knitted or crocheted fabrics [All goods]

*Inserted in the month of Sep 17, # Inserted in the month of Nov 17.

3. In the 28th GST Council meeting, it was decided to remove the restriction of not allowing refund of ITC accumulated on account of inverted duty structure on fabrics with prospective effect on the input supplies received after the date of issue of notification. It was also decided to simultaneously lapse the accumulated ITC, lying unutilised, for the past period, after the payment of GST for the month of July, 2018. Accordingly, to give effect to this decision, the notification No. 20/2018–Central Tax (Rate) has been issued amending notification No. 5/2017-Central Tax(Rate). To keep the accounting simple, it was decided to make these changes effective from the 1st day of August, 2018.

4. Vide the said notification No. 20/2018-Central Tax (Rate), the following proviso has been inserted in notification No. 5/2017-Central Tax (Rate).

"Provided that,-

(i) nothing contained in this notification shall apply to the input tax credit accumulated on supplies received on or after the 1st day of August, 2018, in respect of goods mentioned at serial numbers 1, 2, 3, 4, 5, 6, 6A, 6B, 6C and 7 of the Table below; and

(ii) in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse.".

5. The doubts raised, with reference to changes made vide notification No. 20/2018-Central Tax (Rate) are as follows:

(1) Whether this notification seeks to lapse all the input tax credit lying unutilised after payment of tax upto the month of July. 2018?

(2) Whether unutilised ITC in respect of services and capital goods shall also be disallowed?

(3) Implication to fabrics like cotton and silk where there was no inverted duty structure?

(4) Whether accumulated ITC in respect of exports shall also be made to lapse?

6. The matter has been examined. Section 54 of the CGST Act, 2017 provides for refund of accumulated credit on inputs on account of inverted duty structure, i.e., GST rate on inputs being higher than the GST rates on finished goods. However, proviso (ii) to section 54 (3) provides that in respect of notified goods, the refund of such accumulated input tax credit shall not be allowed. Notification No. 5/2017-Central Tax (Rate) has been issued in terms of this provision and it *interalia* prescribes that refund of accumulated ITC on account of inverted duty structure shall not be allowed in respect of fabrics as mentioned in para 2. Therefore, the restriction of refund of accumulated ITC under notification No. 5/2017-Central Tax (rate) dated 28.06.2017 is applicable only in respect of refund of accumulated ITC on inputs. This notification does not put any restriction in relation to the ITC on input services and capital goods.

7. The proviso has to be read with the principal part of the notification. A comprehensive reading of amended notification makes it clear that the proviso seeks to lapse only such input tax credit which is the subject matter of principal notification, i.e. accumulated credit on account of inverted duty structure in respect of stated fabrics. The net effect of clause (ii) in the said proviso is that it provides for lapsing of input tax credit that would have been refundable in terms of section 54 of the Act, for the period prior to the 31st July, 2018, but for the restriction imposed vide said notification No. 5/2017-Central Tax (Rate) and that too to the extent of accumulated ITC lying unutilised after making payment of GST upto the month of July, 2018. In other words, in terms of amended notification, the input

tax credit on account of inverted duty structure lying in balance after payment of GST for the month of July (on purchases made on or before the 31st July, 2018) shall lapse.

8 As the notification No. 5/2017-Central Tax (Rate) does not put any restriction in respect of ITC on input services and capital goods, therefore the proviso now inserted in the said notification No. 5/2017-Central Tax (Rate) vide notification No. 20/2018 does not affect the ITC availed on input services and capital goods.

9. As regards, the legislative power of providing for lapsing of input tax credit, the same flows inherently from the power to deny refund of accumulated ITC on account of inverted structure.

10. Doubts have also been raised as regards the manner of calculating the ITC amount accumulated on account of inverted duty structure on the inputs of said fabrics that would lapse on account of above stated change. It is clarified that for determination of such amount, the formula as prescribed in rule 89 (5) of the CGST rules shall *mutatis mutandis* apply as it applies for determination of refundable amount for inverted duty structure. Such amount shall be determined for the months from July, 2017 to July 2018 [or for the relevant period for such fabrics on which refund was blocked subsequently by inserting entries in notification No. 5/2017-Central Tax (Rate)]. The accumulated input tax credit determined by each supplier using the prescribed formula lying unutilised in balance after making the payment of GST for the month of July, 2018 shall lapse.

Illustrations:

(1) A manufacture who produces only manmade fibre fabrics, had a turnover of Rs 5 crore for the period from July, 2017 to July 2018[or for the relevant period for fabrics on which refund was blocked subsequently by inserting entries in notification No. 5/2017-Central Tax (Rate)]. Tax payable thereon is Rs 25 lakh (@ 5%). Assuming the net ITC availed on inputs, during this period, was Rs 30 lakh. Applying the formula prescribed in rule 89 (5), the accumulated ITC on account of inverted duty structure comes to Rs 5 lakh. In other words, this manufacturer has accumulated Rs 5 lakh on inputs on account of inverted duty structure during the said period. If ITC balance lying unutilized with him is more than this amount, say Rs 10 lakh, the ITC equal to Rs 5 lakh will only lapse. However, if for any reason, the ITC balance

lying unutilized is less than Rs 5 lakh, say Rs 3 lakh, the ITC equal to Rs 3 lakh will lapse.

(2) A manufacture who produces, say, grey manmade fibre fabrics and cotton fabrics, had a turnover of Rs 5 crore and 2 crore respectively for manmade fabrics and cotton fabrics for the months from July, 2017 to July 2018[or for the relevant period for fabrics on which refund was blocked subsequently by inserting entries in notification No. 5/2017-Central Tax (Rate)]. Tax payable thereon is Rs 25 lakh on MMF fabrics and Rs 10 lakh on cotton fabrics. MMF fabric has inverted duty structure while cotton fabric does not have inverted duty structure. Assuming the net ITC availed on inputs, during this period, was Rs 35 lakh, ie,

= {(Turnover of inverted rated supply of goods÷ Adjusted Total Turnover) x Net ITC} – tax payable on such inverted rated supply of goods

*The accumulated ITC on account of inverted duty structure shall be equal to nil (5/7*35-25). Thus no amount shall lapse. However, assuming that in this case the ITC availed on input is Rs 42 lakh, the accumulated ITC on accounted on inverted duty structure is Rs 5 lakh (5/7*42-25)*

The manner of calculation as provided in rule 89(5) would mutatis mutandis apply.

10.1 As illustrated, the application of formula prescribed in rule 89(5) ensures that ITC relating to capital goods and input services does not lapse.

11. However, a manufacturer may have closing stock of finished goods and inputs as on 31.7.2018. A doubt has been raised as to whether input tax relating thereto shall also lapse and concern has been expressed that this would amount to double taxation. It is clarified that the proposed amendment seeks to lapse only such credit that has been accumulated on inputs on account of inverted duty structure. Therefore, in case a manufacturer, whose accumulated ITC is liable to lapse in terms of said notification, has certain stock lying in balance as on 31.7.2018, the input tax credit involved in inputs contained in such stock (including inputs lying as such) may be excluded for determination of Net ITC for the purposes of applying the said formula. For this purpose, the ITC relating to inputs contained in stock may be determined in the manner as provided in S. No. 7 of Form GST ITC-01.

12. As regards the applicability of said proviso to cotton, silk and other natural fibre fabrics, which do not suffer inverted duty structure, this is clarified that the said condition of lapsing of ITC would apply only if input tax credit on inputs has been accumulated on account of inverted duty structure. The aforesaid formula takes care of this aspect.

13. As regards accumulated ITC in relation to exports, the refund of such ITC on exports is separately determined under rule 89 (4). Application of formula, as prescribed in rule 89(5), ensures that accumulated ITC on exports does not lapse as this formula excludes zero rated supplies. Further notification No. 5/2017-Central Tax(Rate) does not impose any restriction of refunds on zero rated supplies as was also clarified vide CGST circular no. 18/2017-Central Tax dated 16th November, 2017. Hence the proviso has no applicability to the input tax credit relating to zero rated supplies. Accordingly, accumulated ITC on zero rated supplies shall not lapse. This is ensured by application of formula.

14. **The procedure to be followed for lapsing of accumulated input tax credit:** A taxable person, whose input tax credit is liable to be lapsed in terms of said notification, shall calculate the amount of such accumulated ITC, in the manner as clarified above. This amount shall, upon self-assessment, be furnished by such person in his GSTR 3B return for the month of August, 2018. The amount shall be furnished in column 4B (2) of the return [ITC amount to be reversed for any reason (others)]. Verification of accumulated ITC amount so lapsed may be done at the time of filing of first refund (on account of inverted duty structure on fabrics) by such person. Therefore, a detailed calculation sheet in respect of accumulated ITC lapsed shall be prepared by the taxable person and furnished at the time of filing of first refund claim on account of inverted duty structure.

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

Yours faithfully,

Rgupta 24/8/18

Rahil Gupta
Technical Officer (TRU)
Email: rahil.gupta@gov.in

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 4th September, 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: Scope of Principal-agent relationship in the context of Schedule I of the CGST Act - regarding.

In terms of Schedule I of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), the supply of goods by an agent on behalf of the principal without consideration has been deemed to be a supply. In this connection, various representations have been received regarding the scope and ambit of the principal-agent relationship under GST. In order to clarify some of the issues 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 CGST Act hereby clarifies the issues in the succeeding paras.

2. As per section 182 of the Indian Contract Act, 1872, an "agent" is a person employed to do any act for another, or to represent another in dealings with third person. The person for whom such act is done, or who is so represented, is called the "principal". As delineated in the definition, an agent can be appointed for performing any act on behalf of the principal which may or may not have the potential for representation on behalf of the principal. So, the crucial element here is the representative character of the agent which enables him to carry out activities on behalf of the principal.

3. The term "agent" has been defined under sub-section (5) of section 2 of the CGST Act as follows:

> *"agent" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.*

4. The following two key elements emerge from the above definition of agent:

a) the term „agent" is defined in terms of the various activities being carried out by the person concerned in the principal-agent relationship; and
b) the supply or receipt of goods or services has to be undertaken by the agent on behalf of the principal.

From this, it can be deduced that the crucial component for covering a person within the ambit of the term "agent" under the CGST Act is corresponding to the representative character identified in the definition of "agent" under the Indian Contract Act, 1872.

5. Further, the two limbs of any supply under GST are "consideration" and "in the course or furtherance of business". Where the consideration is not extant in a transaction, such a transaction does not fall within the ambit of supply. But, in certain scenarios, as elucidated in Schedule I of the CGST Act, the key element of consideration is not required to be present for treating certain activities as supply. One such activity which has been detailed in para 3 of Schedule I (hereinafter referred to as "**the said entry**") is reproduced hereunder:

3. Supply of goods—

(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

6. Here also, it is worth noticing that all the activities between the principal and the agent and *vice versa* do not fall within the scope of the said entry. Firstly, the supply of services between the principal and the agent and *vice versa* is outside the ambit of the said entry, and would therefore require "consideration" to consider it as supply and thus, be liable to GST. Secondly, the element identified in the definition of "agent", i.e., "**supply or receipt of goods on behalf of the principal**" has been retained in this entry.

7. It may be noted that the crucial factor is how to determine whether the agent is wearing the representative hat and is supplying or receiving goods on behalf of the principal. Since in the commercial world, there are various factors that might influence this relationship, it would be more prudent that an objective criteria is used to determine whether a particular principal-agent relationship falls within the ambit of the said entry or not. Thus, the key ingredient for determining relationship under GST would be whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not. Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of the said entry. However, it may be noted that in cases where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Schedule I of the CGST Act. Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered

by the said entry. In other words, the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

8. Looking at the convergence point between the character of the agent under both the CGST Act and the Indian Contract Act, 1872, the following scenarios are discussed:

Scenario 1

Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various suppliers who can provide the goods as desired by Mr. A, and asks the supplier (Mr. C) to send the goods and issue the invoice directly to Mr. A. In this scenario, Mr. B is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Mr.B is not an agent of Mr. A for supply of goods in terms of Schedule I.

Scenario 2

M/s XYZ, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders. The highest bid is accepted and the goods are sold to the highest bidder by M/s XYZ. The invoice for the supply of the goods is issued by M/s XYZ to the successful bidder. In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mr.B is not an agent of M/s XYZ for the supply of goods in terms of Schedule I.

Scenario 3

Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by M/s B on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder. In this scenario, M/s B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the authority to transfer the title of the painting on behalf of Mr. A. This scenario is covered under Schedule I.

A similar situation can exist in case of supply of goods as well where the C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the C&F/commission agent is an agent of the principal for the supply of goods in terms of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.

Scenario 4

Mr A sells agricultural produce by utilizing the services of Mr B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Mr B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A. As

per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.

In cases where the invoice is issued by Mr. B to the buyer, the former is an agent covered under Schedule I. However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn"t fall under the category of agent covered under Schedule I.

9. In scenario 1 and scenario 2, Mr. B shall not be liable to obtain registration in terms of clause (vii) of section 24 of the CGST Act. He, however, would be liable for registration if his aggregate turnover of supply of taxable services exceeds the threshold specified in sub-section (1) of section 22 of the CGST Act. In scenario 3, M/s B shall be liable for compulsory registration in terms of the clause (vii) of section 24 of the CGST Act. In respect of commission agents in Scenario 4, notification No. 12/2017 Central Tax (Rate) dated 24.06.2017 has exempted "services by any APMC or board or services provided by the commission agents for sale or purchase of agricultural produce" from GST. Thus, the „services" provided by the commission agent for sale or purchase of agricultural produce is exempted. Such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered according to sub-clause (a) of sub-section (1) of section 23 of the CGST Act, if the supply of the agricultural produce, and /or other goods or services supplied by them are not liable to tax or wholly exempt under GST. However, in cases where the supply of agricultural produce is not exempted and liable to tax, such commission agent shall be liable for compulsory registration under sub-section (vii) of section 24 of the CGST Act.

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

11. 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)

CBEC/20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 5th November, 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: Corrigendum to Circular No. 57/31/2018-GST dated 4th September, 2018 issued vide F. No. CBEC/20/16/4/2018-GST - Reg.

In para 9 of the Circular No. 57/31/2018-GST dated 4th September, 2018,

for

"However, in cases where the supply of agricultural produce is not exempted and liable to tax, such commission agent shall be liable for compulsory registration under sub-section (vii) of section 24 of the CGST Act."

read,

"Further, according to clause (vii) of section 24 of the CGST Act, a person is liable for mandatory registration if he makes *taxable supply* of goods or services or both on behalf of other *taxable persons.* Accordingly, the requirement of compulsory registration for commission agent, under the said clause shall arise when both the following conditions are satisfied, namely: -

(a) the principal should be a taxable person; and

(b) the supplies made by the commission agent should be taxable.

Generally, a commission agent under APMC Act makes supplies on behalf of an agriculturist. Further, as per provisions of clause (b) of sub-section (1) of section 23 of the CGST Act an agriculturist who supplies produce out of cultivation of land is not liable for registration and therefore does not fall within the ambit of the term „taxable person". Thus a commission agent who is making supplies on behalf of such an agriculturist, who is not a taxable person, is not liable for compulsory registration under clause (vii) of section 24 of the CGST Act. However, where a commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsorily under section 24 (iii) of the CGST Act."

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 this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

CBEC -20/16/4/2018-GST
Government of Indi a
Ministry of Finance
Department of Revenue
Central Board of Indi rect Taxes and Cu stoms
GST P olicy Wing
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New Delhi, Dated the 4th Septem ber , 2018

To,

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

Sub ject: Recovery of arrears of wrongl y availed CENVAT credit und er the existing law and in adm issible tr ansitional cre dit - reg arding

Various representations have been received seeking clarification on the process of recovery of arrears of wrongly availed CENVAT credit under the existing law and CENVAT credit wrongly carried forward as transitional credit in the GST regime. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act'), hereby specifies the process of recovery of the said arrears and inadmissible transitional credit in the succeeding paragraphs.

2. The Board vide Circular No. 42/16/2018-GST dated 13th April, 2018, has clarified that the recovery of arrears arising under the existing law shall be made as central tax liability to be paid through the utilization of the amount 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).

3. Currently, the functionality to record this liability in the electronic liability register is not available on the common portal. Therefore, it is clarified that as an alternative method, taxpayers may reverse the wrongly availed CENVAT credit under the existing law and

inadmissible transitional credit through Table 4(B)(2) of FORM GSTR-3B. The applicable interest and penalty shall apply on all such reversals which shall be paid through entry in column 9 of Table 6.1 of FORM GSTR-3B.

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 this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Upender G upta)
Commissioner (GST)

F. No. 349/21/2016-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 4th September, 2018

To,

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

Madam/Sir,

Subject: Clarification on refund related issues- regarding

Various representations have been received seeking clarification on issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of 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 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as detailed hereunder:

2. Submission of invoices for processing of claims of refund:

2.1 It was clarified vide Circular No. 37/11/2018-GST dated 15th March, 2018 that since the refund claims were being filed in a semi-electronic environment and the processing was completely based on the information provided by the claimants, it becomes necessary that invoices are scrutinized. Accordingly, it was clarified that the invoices relating to inputs, input services and capital goods were to be submitted for processing of claims for refund of integrated tax where services are exported with payment of integrated tax; and invoices relating to inputs and input services were to be submitted for processing of claims for refund of input tax credit where goods or services are exported without payment of integrated tax.

2.2. In this regard, trade and industry have represented that such requirement is cumbersome and increases their compliance cost, especially where the number of invoices is large.

2.3. In view of the difficulties being faced by the claimants of refund, it has been decided that the refund claim shall be accompanied by a print-out of FORM GSTR-2A of the claimant for the relevant period for which the refund is claimed. The proper officer shall rely upon FORM GSTR-2A as an evidence of the accountal of the supply by the corresponding supplier in relation to which the input tax credit has been availed by the claimant. It may be noted that there may be situations in which FORM GSTR-2A may not contain the details of all the invoices relating to the input tax credit availed, possibly because the supplier's FORM GSTR-1 was delayed or not filed. In such situations, the proper officer may call for the hard copies of such invoices if he deems it necessary for the examination of the claim for refund. It is emphasized that the proper officer shall not insist on the submission of an invoice (either original or duplicate) the details of which are present in FORM GSTR-2A of the relevant period submitted by the claimant.

2.4. The claimant shall also submit the details of the invoices on the basis of which input tax credit had been availed during the relevant period for which the refund is being claimed, in the format enclosed as Annexure -A manually along with the application for refund claim in FORM GST R FD-01A and the Application Reference Number (ARN). The claimant shall also declare the eligibility or otherwise of the input tax credit availed against the invoices related to the claim period in the said Annexure for enabling the proper officer to determine the same.

3. System validations in calculating refu nd am ount

3.1. Currently, in case of refund of unutilized input tax credit (ITC for short), the common portal calculates the refundable amount as the least of the following amounts:

a) The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax +Integrated tax + Cess(wherever applicable)];

b) The balance in the electronic credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and

c) The balance in the electronic credit ledger of the claimant at the time of filing the refund application.

3.2. After calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the claimant in the following order:

a) Integrated tax, to the extent of balance available;

b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

3.3. The procedure described in para 3.2 above, however, is not presently available on the common portal. Till the time such facility is made available on the common portal, the taxpayers are advised to follow the order as explained above for all refund applications filed after the date of issue of this Circular. However, for applications already filed and pending with the tax authorities, where this order is not adhered to by the claimant, no adverse view may be taken by the tax authorities.

3.4. The above system validations are being clarified so that there is no ambiguity in relation to the process through which an application in FORM GST R FD-01A is generated.

3.5. Further, it may be noted that the refund application can be filed only after the electronic credit ledger has been debited in the manner specified in para 3.2 (read with para 3.3) above, and the ARN is generated on the common portal.

4. Re-credit of electronic credit ledger in case of r ejection of refund claim:

4.1. In case of rejection of claim for refund of unutilized input tax credit on account of ineligibility of the said credit under sub-sections (1),(2) or (5) of section 17 of the CGST Act, or under any other provision of the Act and rules made thereunder the proper officer shall

order for the rejected amount to be re-credited to the electronic credit ledger of the claimant using FORM GST RFD-01B. For recovery of this amount, a demand notice shall have to be simultaneously issued to the claimant under section 73 or 74 of the CGST Act, as the case may be. In case the demand is confirmed by an order issued under sub-section (9) of section 73, or sub-section (9) of section 74 of the CGST Act, as the case may be, the said amount shall be added to the electronic liability register of the claimant through FORM GST DRC-07. Alternatively, the claimant can voluntarily pay this amount, along with interest and penalty, if applicable, before service of the demand notice, and intimate the same to the proper officer in FORM GST DRC-03 in accordance with sub-section (5) of section 73 or sub-section (5) of section 74 of the CGST Act, as the case may be, read with sub-rule (2) of rule 142 of the CGST Rules. In such cases, the need for serving a demand notice will be obviated.

4.2. In case of rejection of claim for refund of unutilized input tax credit, on account of any reason other than the eligibility of credit, the rejected amount shall be re-credited to the electronic credit ledger of the claimant using FORM GST RFD-01B only after the receipt of an undertaking from the claimant to the effect that he shall not file an appeal against the said rejection or in case he files an appeal, the same is finally decided against the claimant, as has been laid down in rule 93 of the CGST Rules.

4.3. Consider an example where against a refund claim of Rs.100, only Rs.80 is sanctioned (Rs.15 is rejected on account of ineligible ITC and Rs.5 is rejected on account of any other reason). As described above, Rs.15 would be re-credited with simultaneous issue of notice under section 73 or 74 of the CGST Act for recovery of ineligible ITC. Rs.5 would be re-credited (through FORM GST RFD-01B) only after the receipt of an undertaking from the claimant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the claimant.

5. Scope of rule 96(10) of the CGST Rules:

5.1 Rule 96(10) of the CGST Rules, as amended retrospectively by notification No. 39/2018-Central Tax, dated 04.09.2018 provides that registered persons, including importers, who are directly purchasing/importing supplies on which the benefit of reduced tax incidence or no tax incidence under certain specified notifications has been availed, shall not be eligible for refund of integrated tax paid on export of goods or services. For example, an importer (X) who is importing goods under the benefit of Advance Authorization/EPCG, is directly purchasing/importing supplies on which the benefit of reduced/Nil incidence of tax under the specified notifications has been availed. In this case, the restriction under rule 96(10) of the CGST Rules is applicable to X. However, if X supplies the said goods, after importation, to a domestic buyer (Y), on payment of full tax, then Y can rightfully export these goods under payment of integrated tax and claim refund of the integrated tax so paid. However, in the said example if Y purchases these goods from X after availing the benefit of specified notifications, then Y also will not be eligible to claim refund of integrated tax paid on export of goods or services.

5.2 Overall, it is clarified that the restriction under rule 96(10) of the CGST Rules, as amended retrospectively by notification No. 39/2018-Central Tax, dated 04.09.2018, applies only to those purchasers/importers who are directly purchasing/importing supplies on which the benefit of certain notifications, as specified in the said sub-rule, has been availed.

6 Disbursal of refund amount after sanctioning by the proper officer:

6.1 A few cases have come to notice where a tax authority, after receiving a sanction order from the counterpart tax authority (Centre or State), has refused to disburse the relevant sanctioned amount calling into question the validity of the sanction order on certain grounds. E.g. a tax officer of one administration has sanctioned, on a provisional basis, 90 per cent. of the amount claimed in a refund application for unutilized ITC on account of exports. On receipt of the provisional sanction order, the tax officer of the counterpart administration has observed that the provisional refund of input tax credit has been incorrectly sanctioned for ineligible input tax credit and has therefore, refused to disburse the tax amount pertaining to the same.

6.2 It is clarified that the remedy for correction of an incorrect or erroneous sanction order lies in filing an appeal against such order and not in withholding of the disbursement of the sanctioned amount. If any discrepancy is noticed by the disbursing authority, the same should be brought to the notice of the counterpart refund sanctioning authority, the concerned counterpart reviewing authority and the nodal officer, but the disbursal of the refund should not be withheld. It is hereby clarified that neither the State nor the Central tax authorities shall refuse to disburse the amount sanctioned by the counterpart tax authority on any grounds whatsoever, except under sub-section (11) of section 54 of the CGST Act. It is further clarified that any adjustment of the amount sanctioned as refund against any outstanding demand against the claimant can be carried out by the refund disbursing authority if not already done by the refund sanctioning authority.

7 Status of refund claim after issuance of d eficiency memo:

7.1 Rule 90(3) of the CGST Rules provides that where any deficiencies in the application for refund are noticed, the proper officer shall communicate the deficiencies to the claimant in FORM GST RFD-03, requiring him to file a fresh refund application after rectification of such deficiencies. Further, rule 93(1) of the CGST Rules provides that where any deficiencies have been communicated under rule 90(3), the amount debited under rule 89 (3) shall be re-credited to the electronic credit ledger. Therefore, the intent of the law is very clear that in case a deficiency memo in FORM GST RFD-03 has been issued, the refund claim will have to be filed afresh.

7.2 It has been learnt that certain field formations are issuing show cause notices to the claimants in cases where the refund application is not re-submitted after the issuance of a deficiency memo. These show-cause-notices are being subsequently adjudicated and orders are being passed in FORM GST RFD-04/06. It is clarified that show-cause-notices are not required to be issued where deficiency memos have been issued. A refund application which is re-submitted after the issuance of a deficiency memo shall have to be treated as a fresh application. No order in FORM GST RFD-04/06 can be issued in respect of an application against which a deficiency memo has been issued and which has not been resubmitted subsequently.

8 Treatm ent of refund appli cations where the amount claimed is less than rupees one thousand :

8.1 Sub-section (14) of section 54 of the CGST Act provides that no refund under sub-section (5) or sub-section (6) of section 54 shall be paid to an applicant, if the amount is less than one thousand rupees.

8.2 In this regard, it is clarified that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively. The limit would not apply in cases of refund of excess balance in the electronic cash ledger. All field formations are requested to reject claims of refund from the electronic credit ledger for less than one thousand rupees and re-credit such amount by issuing an order in FORM GST RFD- 01B.

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 this Circular may please be brought to the notice of the Board. Hindi version would follow.

[Encl: Ann exure-A]

(Upender Gupta)

Commissioner (GST)

Annexure -A

Format for Statement of Invoices to be submitted with application for refund in FORM GST RFD-01A

S. No.	GSTIN of the supplier	Name of the Supplier	Invoice Details			Type	Central tax	State tax/Union Territory tax	Integrated tax	Cess	Eligible for ITC	Amount of eligible ITC
			Invoice No.	Date	Value	Inputs/ input services/ capital goods					Yes/No /Partially	
1	2	3	4	5	6	7	8	9	10	11	12	13

CBEC -20/16/10/2018-GST (CBEC)
Government of Indi a
Ministry of Finance
Department of Revenue
Central Board of Ind irect Taxes and Custom s
GST P olicy Wing

New Delhi, Dated the 4th Septem ber, 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All)
The Principal Directors General/ Directors General (All)
The Principal Chief Controller of Accounts, CBIC

Madam / Sir,

Sub ject: Processing of refund applications filed by Canteen Stores Department (CSD)- regar din g

Vide notifications No. 6/2017-Central Tax (Rate), No. 6/2017-Integrated Tax (Rate) and No. 6/2017-Union territory Tax (Rate), all dated 28th June 2017, the Central Government has specified the Canteen Stores Department (CSD for short), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent. of the applicable central tax, integrated tax and Union territory tax paid by the CSD on all inward supplies of goods received by the CSD for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD. Identical notifications have been issued by the State Governments allowing refund of fifty per cent of the State tax paid by the CSD on the inward supply of goods received by it and supplied subsequently as stated above.

2. With a view to ensuring expeditious processing of refund claims, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereafter referred to as the 'CGST Act'), hereby specifies the manner and procedure for filing and processing of such refund claims as below:-

3. Filing Ap plication for Re fund :

3.1 Invoice -based refund : It is clarified that the instant refund to be granted to the CSD is not for the accumulated input tax credit but refund based on the invoices of the inward supplies of goods received by them.

3.2 Manual filing of claim s on a q uarter ly basis: In terms of rule 95 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the 'CGST Rules'), the CSD are required to apply for refund on a quarterly basis. Till the time the online utility for filing the refund claim is made available on the common portal, the CSD shall apply for refund by filing an application in FORM GST RFD-10A (Annexure -A to this Circular) manually to the jurisdictional tax office. The said form shall be accompanied with the following documents:

(i) An undertaking stating that the goods on which refund is being claimed have been received by the CSD;

(ii) A declaration stating that no refund has been claimed earlier against the invoices on which the refund is being claimed;

(iii) Copies of the valid return filed in FORM GSTR-3B by the CSD for the period covered in the refund claim;

(iv) Copies of FORM GSTR-2A of the CSD for the period covered in the refund claim along with the attested hard copies of the invoices on which refund is claimed but which are not reflected in FORM GSTR -2A;

(v) Details of the bank account in which the refund amount is to be credited.

4. Processing and sanction of the refund claim

4.1 Upon receipt of the complete application in FORM GST RFD-10A, an acknowledgement shall be issued manually within 15 days of the receipt of the application in FORM GST RFD-02 by the proper officer. In case of any deficiencies in the requisite documentary evidences to be submitted as detailed in para 3.2 above, the same shall be communicated to the CSD by issuing a deficiency memo manually in FORM GST RFD-03 by the proper officer within 15 days of the receipt of the refund application. Only one deficiency memo should be issued which should be complete in all respects.

4.2 The proper officer shall validate the GSTIN details on the common portal to ascertain whether the return in FORM GSTR- 3B has been filed by the CSD. The proper officer may scrutinize the details contained in FORM RFD-10A, FORM GSTR-3B and FORM GSTR-2A. The proper officer may rely upon FORM GSTR-2A as an evidence of the accountal of the supply made by the corresponding suppliers to the CSD in relation to which the refund has been claimed by the CSD.

4.3 The proper officer should ensure that the amount of refund sanctioned is 50 % of the Central tax, State tax, Union territory tax and integrated tax paid on the supplies received by CSD. The proper officer shall issue the refund sanction/rejection order manually in FORM GST RFD-06 along with the payment advice manually in FORM GST RFD-05 for each tax head separately. The amount of sanctioned refund in respect of central tax/integrated tax along with the bank account details of the CSD shall be manually submitted in the PFMS system by the jurisdictional Division's DDO and a signed copy of the sanction order shall be sent to the PAO for release of the said amount.

5. It is clarified that the CSD will apply for refund with the jurisdictional Central tax/State tax authority to whom the CSD has been assigned. However, the payment of the sanctioned refund amount in relation to central tax / integrated tax shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to State Tax / Union Territory Tax shall be made by the State tax/Union Territory tax authority. It therefore, becomes necessary that the refund order issued by the proper officer of any tax authority is duly communicated to the concerned counter-part tax authority within seven days for the purpose of payment of the remaining sanctioned refund amount. The procedure outlined in para 6.0 of Circular No.24/24/2017-GST dated 21st December 2017 should be followed in this regard.

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

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

[Encl: Annexur e-A]

(Upender Gupta)
Commissioner (GST)

Annexure A

FORM GST R FD-10A

(See Rule 95)

Application for refund by Cante en Stores De partme nt (CSD)

1. GSTIN :
2. Name :
3. Address :
4. Tax Period (Quarter) : From <DD/MM/YY>To <DD/MM/YY>
5. Amount of Refund Claim : <INR><In Words>
6. Details of inward supplies of goods received:

GSTIN of supplier	Invoice/Debit Note/Credit Note details			Rate	Taxable value	Amount of tax			
	No.	Date	Value			Integrated tax	Central Tax	State/ Union territory Tax	
1	2	3	4	5	6	7	8	9	
6A. Invoices received									
7. To									
6B. Debit/Credit Note received									
al									

refund applied for:

Central Tax	State /Union territory Tax	Integrated Tax	Total
<Total>	<Total>	<Total>	<Total>

8. Details of Bank Account:
   a. Bank Account Number
   b. Bank Account Type
   c. Name of the Bank
   d. Name of the Account Holder
   e. Address of Bank Branch
   f. IFSC

g. MICR

9. Attachment of the following documents with the refund application :
   a. Copy of FORM GSTR -3B for the period for which application has been filed
   b. Copy of FORM GSTR -2A for the period for which application has been filed

10. Verification

I _____ as an authorised representative of << Name of Canteen Store Department>> hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom. I further declare that all the goods, in respect of which the refund is being claimed, have been received by us and that no refund has been claimed earlier against any of the invoices against which refund has been claimed in this application.

Date: Signature of Authorised Signatory:

Place: Name:

Designation / Status

Instructions:

1. Application for refund shall be filed on quarterly basis.
2. Applicant should ensure that all the invoices declared by them have the GSTIN of the supplier and the GSTIN of the respective CSD clearly marked on them.

CBEC -20/13/01/2018-GST
Government of Indi a
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 4th Septem ber, 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: E-way b ill in case of storing of goods in godown of transporter - regarding

Various representations have been received on the matter pertaining to the textile sector and problems being faced by weavers & artisans regarding storage of their goods in the warehouse of the transporter. It has been stated that textile traders use transporters' godown for storage of their goods due to their weak financial conditions. The transporters providing such warehousing facility will have to get themselves registered under GST and maintain detailed records in cases where the transporter takes delivery of the goods and temporarily stores them in his warehouse for further transportation of the goods till the consignee/recipient taxpayer's premises. The transport industry is facing difficulties due to the same and a request has been made to treat these godowns as transit godowns.

2. In view of the difficulties being faced by the transporters and the consignee/recipient taxpayer and to ensure uniformity in the procedure across the sectors and the country, the Board in exercise of its power conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereafter referred to as the CGST Act) hereby clarifies the issues in the succeeding paragraphs.

3. As per rule 138 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) e-way bill is a document which is required for the movement of goods from the supplier's place of business to the recipient taxpayer's place of business. Therefore, the goods in movement including when they are stored in the transporter's godown (even if the godown is located in the recipient taxpayer's city/town) prior to delivery shall always be accompanied by a valid e-way bill.

4. Further, section 2(85) of the CGST Act defines the "place of business" to include "a place from where the business is ordinarily carried out, and includ es a warehouse , a godown or any other place where a taxab le person stores his goods, supplies or receives goods or services or

both". An additional place of business is the place of business from where taxpayer carries o business related activities within the State, in addition to the principal place of business.

5. Thus, in case the consignee/ recipient taxpayer stores his goods in the godown of the transporter, then the transporter's godown has to be declared as an additional place of business by the recipient taxpayer. In such cases, mere declaration by the recipient taxpayer to this effect with the concurrence of the transporter in the said declaration will suffice. Where the transporter's godown has been declared as the additional place of business by the recipient taxpayer, the transportation under the e-way bill shall be deemed to be concluded once the goods have reached the transporter's godown (recipient taxpayer' additional place of business). Hence, e-way bill validity in such cases will not be required to be extended.

6. Further, whenever the goods are transported from the transporters' godown , which has been declared as the additional place of business of the recipient taxpayer, to any other premises of the recipient taxpayer then, the relevant provisions of the e-way bill rules shall apply. Hence, whenever the goods move from the transporter's godown (i.e, recipient taxpayer's additional place of business) to the recipient taxpayer's any other place of business, a valid e-way bill shall be required, as per the extant State-specific e-way bill rules.

7. Further, the obligation of the transporter to maintain accounts and records as specified in section 35 of the CGST Act read with rule 58 of the CGST Rules shall continue as a warehouse-keeper. Furthermore, the recipient taxpayer shall also maintain accounts and records as required under rules 56 and 57 of the CGST Rules. Furthermore, as per rule 56 (7) of the CGST Rules, books of accounts in relation to goods stored at the transporter's godown (i.e., the recipient taxpayer's additional place of business) by the recipient taxpayer may be maintained by him at his principal place of business. It may be noted that the facility of declaring additional place of business by the recipient taxpayer is in no way putting any additional compliance requirement on the transporters.

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 this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

CIRCULAR No.62/36/2018-GST

F. No. 354/124/2018-TRU
Government Of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs

New Delhi, 12th September, 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: Levy of GST on Priority Sector Lending Certificates (PSLC) – regarding

Representations have been received requesting to clarify the following:

(i) Mechanism for discharge of tax liability on trading of Priority Sector Lending Certificate (PSLC) for the period 1.7.2017 to 27.5.2018.
(ii) GST rate applicable on trading of PSLCs.

2. The representations have been examined. With the approval of the GST Implementation Committee of the GST Council, it is clarified that GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis and GST rate of 12% will be applicable on the supply.

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

Yours Sincerely,

(Parmod Kumar)
OSD(TRU II)
Tele No.: 011-23092374
E-mail: parmodkumar.71@gov.in

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 14th September, 2018

To

The Principal Chief Commissioners/ Chief Commissioners/
Principal Commissioners/Commissioner of Central Tax (All) /
The Principal Directors General/ Directors General (All) /
Pr. Chief Controller of Accounts (CBIC)

Madam/ Sir,

Subject: Clarification regarding processing of refund claims filed by UIN entities – regarding

The Board vide Circulars No. 36/10/2018-GST dated 13th March, 2018 and No. 43/17/2018-GST dated 13th April, 2018 has specified the detailed procedure for filing and processing of refund applications by UIN entities (Embassy/Mission/Consulate / United Nations Organizations/Specified International Organizations). Various representations have been received on certain issues pertaining to the processing of such refund claims. In order to clarify these issues 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 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) hereby clarifies the said issues as below:

2. **Non-compliance with letter of reciprocity:** Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts provide for examination of the refund claims in accordance with the letter of reciprocity issued by the Ministry of External Affairs (hereinafter referred to as MEA). Generally, these letters of reciprocity have certain conditions specified on the basis of which refunds have to be processed and sanctioned. For example, letters may specify the minimum value of goods or services or the end use of such goods or services (official or personal purposes).

2.1 It has been observed that many UIN entities are claiming the refund on all invoices irrespective of whether or not they are eligible for the same as per the reciprocity letter issued by MEA. It is observed that such claims are attested/signed by Diplomats/Consulars and authorized signatories of the Consulates or Embassies of the foreign countries.

3. UIN entities have been advised to submit a statement of invoices and hard copies of only those invoices wherein the UIN is not mentioned vide Circular No. 43/17/2018-GST dated 13th April,2018. Further, refund processing officers have been advised not to request for original or hard copy of the invoices unless necessary. However, it is observed that the delay in processing of the UIN refunds is primarily due to the non-furnishing of the hard copy of the invoices by the UIN entities and the statement of invoices as specified in paragraph 2.1 of Circular No. 43/17/2018-GST dated 13.04.2018. It may be noted that the same are needed in order to determine the eligibility for grant of refund in accordance with the reciprocity letter issued by MEA. Further, it has been observed that in some cases, the Certificate and Undertaking submitted by the UIN entities is not in accordance with Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts.

4. In order to expedite the processing of the refund applications filed by the UIN entities, the following formats/documents are hereby specified:

4.1 **Refund Checklist**: In order to bring in uniformity in the processing of the refund claims, a checklist has been specified in **Annexure A.** All UIN entities may refer to this checklist while filing the refund claims.

4.2 **Certificate:** A sample certificate to be submitted by Embassy/Mission/Consulate is enclosed as **Annexure-B** and that to be submitted by United Nations Organizations/Specified International Organizations is enclosed as **Annexure-B-1**.

4.3 **Undertaking:** A sample undertaking to be submitted by Embassy/Mission/Consulate is enclosed as **Annexure-C** and that to be submitted by United Nations Organizations/Specified International Organizations is enclosed as **Annexure-C-1**.

4.4 **Statement of Invoices:** The detailed statement of invoices shall be submitted in the format specified in **Annexure D.**

5. **Prior Permission letter for GST refund for purchase of vehicles:** MEA vide letter F. No. D_II/451/12(5)/2017 dated 21.06.2018 has informed that it is mandatory to enclose the copy of 'Prior Permission Letter' issued by the Protocol Special Section of MEA at the time of submission of GST refund for purchase of vehicle by the foreign representatives. Accordingly, it is advised that UIN entities must submit the copy of the 'Prior Permission letter' and mention the same in the covering letter while applying for GST refund on purchase of vehicles to avoid delay in processing of refunds.

6. **Non-availability of refunds to personnel and officials of United Nations and other International organizations:** It is hereby clarified that the personnel and officials of United Nations and other International organizations are not eligible to claim refund under Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts. However, the eligibility of refund for the personnel and officials posted in the Embassy/Mission/Consulate shall be determined based on the principle of reciprocity.

7. **Waiver from recording UIN in the invoices for the months of April, 2018 to March, 2019:** A one-time waiver is hereby given from recording the UIN on the invoices issued by the suppliers pertaining to the refund claims filed for the quarters from April, 2018 to March, 2019, subject to the

condition that the copies of such invoices which are attested by the authorized representative of the UIN entity shall be submitted to the jurisdictional officer.

8. **Format of Monthly report:** Circular No. 36/10/2018-GST dated 13th March, 2018 provides for a monthly report to be furnished to the Principal Director General of Goods and Services Tax by the 30th of the succeeding month. The report shall now be furnished in a new format as specified in **Annexure E**.

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)

Annexure A: Checklist for processing UIN refunds

(a) Covering letter for each quarterly refund

(b) Final copy of **FORM GST RFD- 10** with Application Reference Number (ARN)

(c) Final copy of **FORM GSTR – 11**

(d) Statement of invoices as per Annexure D

(e) Certificate in case of goods that the goods have been used according to Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts

(f) Undertaking in case of services that the services have been used according to Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts

(g) Copy of letter issued by the Protocol Division of the Ministry of External Affairs based on the principle of reciprocity

(h) Photocopies of only those invoices where UIN has not been recorded on the invoices by the supplier.

(i) A cancelled cheque of the bank account as mentioned in **FORM GST RFD-10** (to be submitted with only the first refund claim filed)

Annexure B: Certificate to be submitted by Mission/Embassy/Consulate

Date:

CERTIFICATE

(as per CBIC's (a) notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts)

The Mission/Embassy/Consulate of the _____, <Name of the State> hereby confirms that:

I. The goods mentioned in the invoices for the period _____to _____ have been put to official use/ are in the official use of the Embassy/ Consulate or for personal use of the members of his/her family.

II. The goods will not be supplied further or otherwise disposed of before the expiry of three years from the date of receipt of the goods and

III. In the event of non-compliance of clause (I) and (II), the Mission/ Embassy /Consulate will pay back the refund amount paid to the Mission/Embassy/Consulate.

IV. The refund claimed by us is as per the terms and conditions stipulated in the Certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity.

I, _____, declare that I have read and understood all the conditions mentioned above and hereby agree to abide by them.

(Signature)

Name

Head of the Mission/Consulate/ Embassy / Any other

Authorized Signatory

Note: Please take print on letterhead of the Embassy & sign with stamp

Delete / strike which are not applicable.

Annexure B-I: Format for certificate for United Nations Organizations/Specified International Organizations)

Date:

CERTIFICATE

(as per CBIC's notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts)

The < Name of the Organization>, <Name of the State> hereby confirms that:

The goods mentioned in the invoices for the period _____to _____ have been used or are intended to be used for official purpose of the< Name of the Organization>, New Delhi.

I, _____, declare that I have read and understood all the conditions mentioned above and hereby agree to abide by them.

(Signature)
Name
Head of the Organisation/Authorized Signatory

Note: Please take print on letterhead of the organization and sign with stamp.

Annexure C: Format for undertaking for Mission/Embassy/Consulate

Date:

UNDERTAKING
(as per CBIC's notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts)

The Embassy/Mission/Consulate of the _____, <Name of the State> hereby state that the services received as mentioned in the invoices for the period _____ to _____ are for official purposes of the Embassy/Mission/Consulate of the _____ in <Name of the State> or for personal use of the said diplomatic agent or career consular officer or members of his/her family.

The refund claimed by us on the above mentioned services is as per the terms and conditions stipulated in the Certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity.

(Signature)
Name
Head of the Mission/Consulate/ Embassy/
Authorized Signatory

Note: Please take print on letterhead of the Embassy & sign with stamp

Delete / strike which are not applicable.

Annexure C-I: Format for undertaking for United Nation Organizations/Specified International Organizations)

Date:

UNDERTAKING
(as per CBIC's notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) and No. 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and corresponding notifications under the respective State Goods and Services Tax Acts)

The <Name of the Organisation> , <Name of the State> hereby state that the services received as mentioned in the invoices for the period _____ to _____ are for official purpose of the <Name of the Organisation>, <Name of the State>.

I, _____, declare that I have read and understood all the conditions mentioned above and hereby agree to abide by them.

( )
Name
Authorized Signatory

Note: Please take print on letter head of the organization and signed with stamp.

Annexure D: Format for statement of invoices

Sl. No.	GSTIN of supplier	Invoice No.	Invoice Date	Invoice Value	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Place of Supply	Goods / Services	Description of goods/ services	For Official use / Personal use	Whether the said invoice is covered under the principle of reciprocity? (Y / N)

Verification

I/We <Name of the Authorized representative / Diplomat / Consular >> hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

I also affirm that the invoices declared in the table above are eligible for refund under Notifications No. 13/2017 – Integrated Tax (Rate), 16/2017-Central Tax (Rate) 16/2017 – Union Territory tax (Rate) all dated 28th June, 2017 and the corresponding notifications issued under the respective State Goods and Services Tax Act, 2017.

I/We declare that no refund on this account has been received by me/us earlier.

Place

Signature of Authorized Signatory

Date

Designation/ Status

Annexure E: Format for monthly report

Office of the Commissioner_____

Report for the month of_____

Name of the State	Details of the UIN entity		Time Period		Status of Refund application (Sanctioned / Deficiency Memo issued / under process / Rejected)	Name of the State for which refund has been sanctioned	Central Tax	State Tax / Union Territory Tax	Integrated Tax	Cess
	Name	UIN	From	To						
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

F. No. 20/16/04/18-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 6th September, 2019

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioners of Central Tax (All)/ The Principal Director General/ Director General (All)/ Pr. Chief Controller of Accounts (CBIC)

Madam/Sir,

Subject: Corrigendum to Circular No. 63/37/2018-GST dated 14th September, 2018 issued vide F. No 349/48/2017-GST- reg.

As the issue of non-recording of UINs has continued even after 31st March, 2019 it has been decided to extend the waiver given in tis regard vide Circular No.63/37/2018-GST dated 14th September, 2018 upto 31st March 2020.

Accordingly in para 7 of the Circular No.63/37/2018-GST dated 14th September, 2018, for the words and numbers '**April, 2018 to March, 2019' words and numbers 'April, 2018 to March, 2020'** shall be substituted subject to the condition that the copies of such invoices which are attested by the authorized representative of the UIN entity shall be substituted subject to the condition that the copies of such invoices which are attested by the authorized representative of the UIN entity shall be submitted to the jurisdictional officer.

2. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. The retailer associations, hypermart and other retailer chains should also be advised to ensure that a mechanism to record the UIN in the supply invoices is put in place before 31st March 2020.

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

(Yogendra Garg)
Principal 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 14th September, 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: Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in Circular Nos. 41/15/2018-GST dated 13.04.2018 and 49/23/2018-GST dated 21.06.2018 - regarding

Kind attention is invited to Circular No. 41/15/2018-GST dated 13th April, 2018 as amended by Circular No. 49/23/2018-GST dated 21st June, 2018 vide which the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances was specified.

2. Various representations have been received regarding imposition of penalty in case of minor discrepancies in the details mentioned in the e-way bill although there are no major lapses in the invoices accompanying the goods in movement. The matter has been examined. In order to clarify this issue 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 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') hereby clarifies the said issue hereunder.

3. Section 68 of the CGST Act read with rule 138A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules') requires that the person in charge of a

conveyance carrying any consignment of goods of value exceeding Rs 50,000/- should carry a copy of documents viz., invoice/bill of supply/delivery challan/bill of entry and a valid e-way bill in physical or electronic form for verification. In case such person does not carry the mentioned documents, there is no doubt that a contravention of the provisions of the law takes place and the provisions of section 129 and section 130 of the CGST Act are invocable. Further, it may be noted that the non-furnishing of information in **Part B** of **FORM GST EWB-01** amounts to the e-way bill becoming not a valid document for the movement of goods by road as per Explanation (2) to rule 138(3) of the CGST Rules, except in the case where the goods are transported for a distance of upto fifty kilometres within the State or Union territory to or from the place of business of the transporter to the place of business of the consignor or the consignee, as the case may be.

4. Whereas, section 129 of the CGST Act provides for detention and seizure of goods and conveyances and their release on the payment of requisite tax and penalty in cases where such goods are transported in contravention of the provisions of the CGST Act or the rules made thereunder. It has been informed that proceedings under section 129 of the CGST Act are being initiated for every mistake in the documents mentioned in para 3 above. It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated.

5. Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, *inter alia*, in the following situations:

a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;

b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;

c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;

d) Error in one or two digits of the document number mentioned in the e-way bill;

e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;

f) Error in one or two digits/characters of the vehicle number.

6. In case of the above situations, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in **FORM GST DRC-07** for every consignment. A record of all such consignments where proceedings under section 129 of the CGST Act have not been invoked in view of the situations listed in paragraph 5 above shall be sent by the proper officer to his controlling officer on a weekly basis.

7. 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)

Circular No. 65/39/2018-DOR

F.No.S.31011/11/2018-ST-I-DoR
Government of India
Ministry of Finance
Department of Revenue
***

New Delhi, Dated the 14th September, 2018

To,

1. Secretaries of the Central Ministries as pe list enclosed.
2. Chief Secretaries of all States/UTs with legislature/ UTs without Legislature.
3. All Finance Secretaries/ CCTs of the States/ UTs with Legislature/UTs without Legislature.
4. Chairman CBIC /All Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioners of Central Tax (through Member, GST, CBIC)
5. Pr.Chief Controller of Accounts, CBIC.

Madam/Sir,

Subject: Guidelines for Deductions and Deposits of TDS by the DDO under GST

Section 51 of the CGST Act 2017 provides for deduction of tax by the Government Agencies (Deductor) or any other person to be notified in this regard, from the payment made or credited to the supplier (Deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees. The amount deducted as tax under this section shall be paid to the Government by deductor within ten days after the end of the month in which such deduction is made alongwith a return in FORM GSTR-7 giving the details of deductions and deductees. Further, the deductor has to issue a certificate to the deductee mentioning therein the contract value, rate of deduction, amount deducted etc.

2. As per the Act, every deductor shall deduct the tax amount from the payment made to the supplier of goods or services or both and deposit the tax amount so deducted with the Government account through NEFT to RBI or a cheque to be deposited in one of the authorized banks, using challan on the common portal. In addition, the deductors are entrusted the responsibility of filing return in FORM GSTR-7 on the common portal for every month in which

deduction has been made based on which the benefit of deduction shall be made available to the deductee. All the DDOs in the Government, who are performing the role as deductor have to register with the common portal and get the GST Identification Number (GSTIN).

3. The subject section which provides for tax deduction at source was not notified to come into force with effect from 1st July, 2017, the date from which GST was introduced. Government has recently notified that these provisions shall come into force with effect from 1st October, 2018, vide Notification No. 50/2018 – Central Tax dated 13th September, 2018.

4. For payment process of Tax Deduction at Source under GST two options can be followed, which are as under:

Option I: Generation of challan for every payment made during the month

Option II: Bunching of TDS deducted from the bills on weekly, monthly or any periodic manner

5. In order to give effect to the above options from 01.10.2018, a process flow of deduction and deposit of TDS by the DDOs has been finalised in consultation with CGA for guidance and implementation by Central and State Government Authorities. The process flow for Option I and Option II are described as under:

Option I - Individual Bill-wise Deduction and its Deposit by the DDO

6. In this option, the DDO will have to deduct as well as deposit the GST TDS for each bill individually by generating a CPIN (Challan) and mentioning it in the Bill itself.

7. Following process shall be followed by the DDO in this regard:

(i) The DDO shall prepare the Bill based on the Expenditure Sanction. The Expenditure Sanction shall contain the (a) Total amount, (b) net amount payable to the Contractor/Supplier/Vendor and (c) the 2% TDS amount of GST.

(ii) The DDO shall login into the GSTN Portal (using his GSTIN) and generate the CPIN (Challan). In the CPIN he shall have to fill in the desired amount of payment against one/many Major Head(s) (CGST/SGST/UTGST/IGST) and the relevant component (e.g. Tax) under each of the Major Head.

(iii) While generating the CPIN, the DDO will have to select mode of payment as either (a) NEFT/RTGS or (b) OTC. In the OTC mode, the DDO will have to select the Bank where the payment will be deposited through OTC mode.

(iv) The DDO shall prepare the bill on PFMS (in case of Central Civil Ministries of GoI), similar payment portals of other Ministries/Departments of GoI or of State Governments for submission to the respective payment authorities.

(v) In the Bill,

(a) the net amount payable to the Contractor; and

(b) 2% as TDS

will be specified

(vi) In case of NEFT/RTGS mode, the DDO will have to mention the CPIN Number (as beneficiary's account number), RBI (as beneficiary) and the IFSC Code of RBI with the request to payment authority to make payment in favour of RBI with these credentials.

(vii) In case of the OTC mode, the DDO will have to request the payment authority to issue 'A' Category Government Cheque in favour of one of the 25 authorized Banks. The Cheque may then be deposited along with the CPIN with any of branch of the authorized Bank so selected by the DDO.

(viii) Upon successful payment, a CIN will be generated by the RBI/Authorized Bank and will be shared electronically with the GSTN Portal. This will get credited in the electronic Cash Ledger of the concerned DDO in the GSTN Portal. This can be viewed and the details of CIN can be noted by the DDO anytime on GSTN portal using his Login credentials.

(ix) The DDO should maintain a Register as per proforma given in Annexure 'A' to keep record of all TDS deductions made by him during the month. This Record will be helpful at the time of filing Monthly Return (FORM GSTR-7) by the DDO. The DDO may also make use of the offline utility available on the GSTN Portal for this purpose.

(x) The DDO shall generate TDS Certificate through the GST Portal in FORM GSTR-7A after filing of Monthly Return.

Option II - Bunching of deductions and its deposit by the DDO

8. Option-I may not be suitable for DDOs who make large number of payments in a month as it would require them to make large number of challans during the month. Such DDOs may exercise this option wherein the DDO will have to deduct the TDS from each bill, for keeping it under the Suspense Head. However, deposit of this bunched amount from the Suspense Head can be made on a weekly, monthly or any other periodic basis.

9. Following process shall be followed by the DDO in this regard:

(i) The DDO shall prepare the Bill based on the Expenditure Sanction. The Expenditure Sanction shall contain the (a) Total amount, (b) net amount payable to the Contractor/Supplier/Vendor and (c) the 2% TDS amount of GST.

(ii) The DDO shall prepare the bill on PFMS (in case of Central Civil Ministries of GoI), similar payment portals of other Ministries/Departments of GoI or of State Governments for submission to the respective payment authorities.

(iii) In the Bill, it will be specified

(a) the net amount payable to the Contractor; and

(b) 2% as TDS

(iv) The TDS amount shall be mentioned in the Bill for booking in the Suspense Head (8658 - Suspense; 00.101 - PAO Suspense; xx – GST TDS)

(v) The DDO will require to maintain the Record of the TDS so being booked under the Suspense Head so that at the time of preparing the CPIN for making payment on weekly/monthly or any other periodic basis, the total amount could be easily worked out.

(vi) At any periodic interval, when DDO needs to deposit the TDS amount, he will prepare the CPIN on the GSTN Portal for the amount (already booked under the Suspense Head).

(vii) While generating the CPIN, the DDO will have to select mode of payment as either (a) NEFT/RTGS or (b) OTC. In the OTC mode,

the DDO will have to select the Bank where the payment will be deposited through OTC mode.

(viii) The DDO shall prepare the bill for the bunched TDS amount for payment through the concerned payment authority. In the Bill, the DDO will give reference of all the earlier paid bills from which 2% TDS was deducted and kept in the suspense head. The DDO may also attach a certified copy of the record maintained by him in this regard.

(ix) The payment authority will pass the bill by clearing the Suspense Head operated against that particular DDO after exercising necessary checks.

(x) In case of NEFT/RTGS mode, the DDO will have to mention the CPIN Number (as beneficiary's account number), RBI (as beneficiary) and the IFSC Code of RBI with the request to payment authority to make payment in favour of RBI with these credentials.

(xi) In case of the OTC mode, the DDO will have to request the payment authority to issue 'A' Category Government Cheque in favour of one of the 25 authorized Banks. The Cheque may then be deposited along with the CPIN with any of branch of the authorized Bank so selected by the DDO.

(xii) Upon successful payment, a CIN will be generated by the RBI/Authorized Bank and will be shared electronically with the GSTN Portal. This will get credited in the electronic Cash Ledger of the concerned DDO in the GSTN Portal. This can be viewed and the details of CIN can be noted by the DDO anytime on GSTN portal using his Login credentials.

(xiii) The DDO should maintain a Register as per proforma given in Annexure 'A' to keep record of all TDS deductions made by him during the month. This Record will be helpful at the time of filing Monthly Return (FORM GSTR-7) by the DDO. The DDO may also make use of the offline utility available on the GSTN Portal for this purpose.

(xiv) The DDO shall file the Return in FORM GSTR-7 by 10th of the following month

(xv) The DDO shall generate TDS Certificate through the GSTN Portal in FORM GSTR-7A

10. Departments in Central Government should instruct all its DDOs under them to follow the above procedure for payment of GST TDS amount deducted from payments to be made to suppliers.

11. Difficulty, if any, in implementation of this circular may please be brought to the notice of Department of Revenue.

(**Ritvik Pandey**)
Joint Secretary to the Government of India

Annexure A

Record to be maintained by the DDO for filing of GSTR7

Sl. No.	GSTIN of the Deductee	Trade Name	Amount paid to the Deductee on which tax is deducted	Integrated Tax	Central Tax	State/UT Tax	Total

F. No. 354/314/2017-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit
****

Room No. 156, North Block,
New Delhi, 26th September 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: GST on Residential programmes or camps meant for advancement of religion, spirituality or yoga by religious and charitable trusts- reg.

Certain representations have been received seeking clarification as regards applicability of GST on residential programmes or camps meant for advancement of religion, spirituality or yoga where the fee charged includes the cost of boarding and lodging.

2. The issue has already been clarified in the Chapter 39 "GST on Charitable and Religious Trusts" of Compilation of 51 GST Flyers updated as on 01.01.2018 available on CBIC website at the link https://goo.gl/EgAJtA.

2.1 The relevant portion reads as under:

"The services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt. Fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt. Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga. However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable".

3. It is accordingly clarified that taxability of the services of religious and charitable trusts by way of residential programmes or camps meant for advancement of religion, spirituality or yoga may be decided accordingly.

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

Yours Faithfully,

(Harish Y N)
Technical Officer, TRU
Email: harish.yn@gov.in
Tel: 011 2309 5547

Circular No. 67/41/2018-DOR

F.No.S.31011/11/2018-ST-I-DoR
Government of India
Ministry of Finance
Department of Revenue
***

New Delhi, Dated the 28th September, 2018

To,

1. Secretaries of the Central Ministries as pe list enclosed.
2. Chief Secretaries of all States/UTs with legislature/ UTs without Legislature.
3. All Finance Secretaries/ CCTs of the States/ UTs with Legislature/UTs without Legislature.
4. Chairman CBIC /All Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioners of Central Tax (through Member, GST, CBIC)
5. Pr.Chief Controller of Accounts, CBIC.

Madam/Sir,

Subject: Modification to the Guidelines for Deductions and Deposits of TDS by the DDO under GST as clarified in Circular No. 65/39/2018-DOR dated14.09.2018 - reg

Circular No. 65/39/2018-DOR dated 14/09/2018, vide which Guidelines for Deductions and Deposits of TDS by the DDO under GST had been issued by the Department of Revenue.

2. On the recommendation of the Controller General of Accounts, the Department of Revenue, hereby issues the following modifications to the said Circular:-

Para 9 (iv) should read as: To enable the DDOs to account for the TDS bunched together (in terms of Option II), following sub-head related to the GST-TDS below the Head 8658.00.101-PAO Suspense has been opened.

S. No.	Major Head	Sub Head Description	Major Head Serial Code (8-digit reduced accounting code)	SCCD Code
1.	8658-00-101	08-GST TDS	86580344	367

3. Difficulty, if any, in implementation of this circular may please be brought to the notice of Department of Revenue.

(**Ritvik Pandey**)
Joint Secretary to the Government of India

F. No. 354/360/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit
****

Room No. 146G, North Block,
New Delhi, 5th October 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: Notifications issued under CGST Act, 2017 applicable to Goods and Services Tax (Compensation to States) Act, 2017

Representations have been received by the Board regarding the entitlement of UN and specified international organizations, foreign diplomatic mission or consular posts, diplomatic agents and consular offices post therein to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them.

2. The issue has been examined. Section 55 of the Central Goods and Services Tax Act, 2017(hereinafter referred to as 'CGST Act') provides that the Government may, on the recommendation of the council, specify UN agencies and organizations notified under the UNPI Act 1947, Consulates, Embassies of foreign countries and any other person to be entitled to claim refund of the taxes paid on the notified supplies of goods and services, subject to such conditions and restrictions as may be prescribed. Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017 has been issued specifying UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein for the purposes of the said section.

3. Section 11 of the Goods and Services Tax (Compensation to States) Act, 2017(hereinafter referred to as 'the Compensation Cess Act'), provides that provisions of CGST Act and IGST Act apply in relation to levy and collection of Compensation Cess. Further, section 9(2) of the Compensation Cess Act provides that for all the purposes of claiming refunds, except the form to be filed, the provisions of the CGST Act and the rules made thereunder, shall apply in relation to the levy and collection of Compensation Cess. Therefore, notifications issued under the CGST Act except those prescribing rate or granting exemptions, are applicable for the purpose of the Compensation Cess Act.

4. Accordingly, notification No. 16/2017-Central Tax(Rate) dated 28.06.2017 shall be applicable for the purposes of refund of Compensation Cess to UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein.

5. In view of the above, it is clarified that UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having being specified under section 55 of the CGST Act, 2017, are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis mutandis, as prescribed in Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017.

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/20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 26th October, 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: Processing of Applications for Cancellation of Registration submitted in FORM GST REG-16 - Reg.

The Board is in receipt of representations seeking clarifications on various issues in relation to processing of the applications for cancellation of registration filed by taxpayers in **FORM GST REG-16**. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of 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 (hereinafter referred to as the "CGST Act"), hereby clarifies the issues as detailed hereunder:

2. Section 29 of the CGST Act, read with rule 20 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Rules") provides that a taxpayer can apply for cancellation of registration in **FORM GST REG-16** in the following circumstances:

a. Discontinuance of business or closure of business;

b. Transfer of business on account of amalgamation, merger, de-merger, sale, lease or otherwise;

c. Change in constitution of business leading to change in PAN;

d. Taxable person (including those who have taken voluntary registration) is no longer liable to be registered under GST;

e. Death of sole proprietor;

f. Any other reason (*to be specified in the application*).

3. Rule 20 of the CGST Rules provides that the taxpayer applying for cancellation of registration shall submit the application in **FORM GST REG-16** on the common portal within a period of 30 days of the *„œcurrence of the event warranting the cancellation"*. It might be difficult in some cases to exactly identify or pinpoint the day on which such an event occurs. For instance, a business may be transferred/disposed over a period of time in a piece meal fashion. In such cases, the 30-day deadline may be liberally interpreted and the taxpayers‟ application for cancellation of registration may not be rejected because of the possible violation of the deadline.

4. While initiating the application for cancellation of registration in **FORM GST REG-16,** the Common portal captures the following information which has to be mandatorily filled in by the applicant:

a) Address for future correspondence with mobile number and email address;

b) Reason for cancellation;

c) Date from which cancellation is sought;

d) Details of the value and the input tax/tax payable on the stock of inputs, inputs contained in semi-finished goods, inputs contained in finished goods, stock of capital goods/plant and machinery;

e) In case of transfer, merger of business, etc., particulars of registration of the entity in which the existing unit has been merged, amalgamated, or transferred (including the copy of the order of the High Court / transfer deed);

f) Details of the last return filed by the taxpayer along with the ARN of such return filed.

On successful submission of the cancellation application, the same appears on the dashboard of the jurisdictional officer.

5. Since the cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation, the

proper officer should accept all such applications within a period of 30 days from the date of filing the application, except in the following circumstances:

a) The application in **FORM GST REG-16** is incomplete, i.e. where all the relevant particulars, as detailed in para 4 above, have not been entered;

b) In case of transfer, merger or amalgamation of business, the new entity in which the applicant proposes to amalgamate or merge has not got registered with the tax authority before submission of the application for cancellation.

In all cases other than those listed at (a) and (b) above, the application for cancellation of registration should be immediately accepted by the proper officer and the order for cancellation should be issued in **FORM GST REG-19** with the effective date of cancellation being the same as the date from which the applicant has sought cancellation in **FORM GST REG-16.** In any case the effective date cannot be a date earlier to the date of application for the same.

6. In situations referred to in (a) or (b) in para 5 above, the proper officer shall inform the applicant in writing about the nature of the discrepancy and give a time period of seven working days to the taxpayer, from the date of receipt of the said letter, to reply. If no reply is received within the specified period of seven working days, the proper officer may reject the application on the system, after giving the applicant an opportunity to be heard, recording reasons for rejection in the dialog box that opens once the „Reject" button is chosen. If reply to the query is received and the same on examination is found satisfactory, the Proper Officer may approve the application for cancellation and proceed to cancel the registration by issuing an order in **FORM GST REG-19**. If reply to the query is found to be not satisfactory, the Proper Officer may reject the application for cancellation on the system, after giving the applicant an opportunity to be heard. The Proper Officer must also record his reasons for rejection of the application in the dialog box that opens when the „Reject" button is chosen.

7. Section 45 of the CGST Act requires 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) whose registration has been cancelled, to file a final return in **FORM GSTR-10**, within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. The purpose of the final return is to ensure that the taxpayer discharges any liability that he/she may have incurred under sub-section (5) of the section 29 of the CGST Act. It may be noted that the last date for furnishing of **FORM GSTR-10** by those taxpayers whose registration has been cancelled on

or before 30.09.2018 has been extended till 31.12.2018 *vide* notification No. 58/2018 – Central Tax dated the 26th October, 2018.

8. Further, sub-section (5) of section 29 of the CGST Act, read with rule 20 of the CGST Rules states that the taxpayer seeking cancellation of registration shall have to pay, by way of debiting either the electronic credit or cash ledger, the input tax contained in the stock of inputs, semi-finished goods, finished goods and capital goods or the output tax payable on such goods, whichever is higher. For the purpose of this calculation, the stock of inputs, semi-finished goods, finished goods and capital goods shall be taken as on the day immediately preceding the date with effect from which the cancellation has been ordered by the proper officer i.e. the date of cancellation of registration. However, it is clarified that this requirement to debit the electronic credit and/or cash ledger by suitable amounts should not be a prerequisite for applying for cancellation of registration. This can also be done at the time of submission of final return in **FORM GSTR-10.** In any case, once the taxpayer submits the application for cancellation of his/her registration from a specified date, he/she will not be able to utilize any remaining balances in his/her electronic credit/cash ledgers from the said date except for discharging liabilities under GST Act upto the date of filing of final return in **FORM GSTR-10**. Therefore, the requirement to reverse the balance in the electronic credit ledger is automatically met. In case it is later determined that the output tax liability of the taxpayer, as determined under sub-section (5) of section 29 of the CGST Act, was greater than the amount of input tax credit available, then the difference shall be paid by him/her in cash. It is reiterated that, as stated in sub-section (3) of section 29 of the CGST Act, the cancellation of registration does not, in any way, affect the liability of the taxpayer to pay any dues under the GST law, irrespective of whether such dues have been determined before or after the date of cancellation.

9. In case the final return in **FORM GSTR-10** is not filed within the stipulated date, then notice in **FORM GSTR-3A** has to be issued to the taxpayer. If the taxpayer still fails to file the final return within 15 days of the receipt of notice in **FORM GSTR-3A**, then an assessment order in **FORM GST ASMT-13** under section 62 of the CGST Act read with rule 100 of the CGST Rules shall have to be issued to determine the liability of the taxpayer under sub-section (5) of section 29 on the basis of information available with the proper officer. If the taxpayer files the final return within 30 days of the date of service of the order in **FORM GST ASMT-13**, then the said order shall be deemed to have been withdrawn. However, the liability for payment of interest and late fee shall continue.

10. Rule 68 of the CGST Rules requires issuance of notices to registered persons who fail to furnish returns under section 39 (**FORM GSTR-1, FORM GSTR-3B and FORM GSTR-4**), section 44 (Annual Return – **FORM GSTR-9 / FORM GSTR-9A / FORM GSTR-9C**), section 45 (Final Return – **FORM GSTR-10**) or section 52 (TCS Return – **FORM GSTR-6**). It is clarified that issuance of notice would not be required for registered persons who have not made any taxable supplies during the intervening period (i.e. from the date of registration to the date of application for cancellation of registration) and has furnished an undertaking to this effect.

11. It is pertinent to mention here that section 29 of the CGST Act has been amended by the CGST (Amendment) Act, 2018 to provide for *"Suspension"* of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. Although the provisions of CGST (Amendment) Act, 2018 have not yet been brought into force, it will be prudent for the field formations not to issue notices for non-filing of return for taxpayers who have already filed an application for cancellation of registration under section 29 of the CGST Act. However, the requirement of filing a final return, as under section 45 of the CGST Act, remains unchanged.

12**.** It may be noted that the information in table in **FORM GST REG-19** shall be taken from the liability ledger and the difference between the amounts in Table 10 and Table 11 of **FORM GST REG-16**.

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

14. 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. CBEC/20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 26th October, 2018

To,

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

The Principal Directors General / Directors General (All)

The Principal CCA, CBIC

Madam/Sir,

Subject: Clarification on certain issues related to refund – Reg.

The Board is in receipt of representations seeking clarification on certain issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of 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 (hereinafter referred to as the "CGST Act"), hereby clarifies the issues as detailed hereunder:

2. **Status of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger:**

2.1 Para 7.1 of circular No. 59/33/2018-GST dated the 4th September, 2018 clarifies the intent of law in cases where a deficiency memo is issued in respect of a refund claim. In para 7.2 of the said circular, the practise being followed in the field formations was elaborated and it was clarified that show cause notices are not required to be issued (and consequently no orders are required to be issued in **FORM GST RFD-04/06**) in cases where refund application is not re-submitted after the issuance of a deficiency memo (in **FORM GST RFD-03**). It was also clarified that once a deficiency memo has been issued against an application for refund, the

amount of Input Tax Credit debited under sub-rule (3) of rule 89 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") is required to be re-credited to the electronic credit ledger of the applicant by using **FORM GST RFD-01B** and the taxpayer is expected to file a fresh application for refund.

2.2 The issue has been re-examined and it has been observed that presently the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo has been issued against an earlier refund application for the same period. Therefore, it is clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in **FORM GST RFD-03** is issued to taxpayers, re-credit in the electronic credit ledger (using **FORM GST RFD-01B**) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself. It is further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out.

3. **Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports:**

3.1 Sub-rule (10) of Rule 96 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "said sub-rule"), restricts exporters from availing the facility of claiming refund of IGST paid on exports in certain scenarios. It was intended that exporters availing benefit of certain notifications would not be eligible to avail the facility of such refund. However, representations have been received requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as "EPCG Scheme"), should be allowed to avail the facility of claiming refund of the IGST paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 2018, had accorded approval to the proposal of suitably amending the said sub-rule along with sub-rule (4B) of rule 89 of the CGST Rules prospectively in order to enable such exporters to avail the said facility notification No. 54/2018 – Central Tax dated the 9th October, 2018 has been issued to carry out the changes recommended by the GST Council. Alongside the amendment carried out in the said sub-rule through the notification No. 39/2018- Central Tax dated 4th September, 2018 has been rescinded vide notification No. 53/2018 – Central Tax dated the 9th October, 2018.

3.2 For removal of doubts, it is clarified that the net effect of these changes would be that any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 shall be eligible to claim refund of the IGST paid on exports till the date of the issuance of the notification No. 54/2018 – Central Tax dated the 9th October, 2018 referred to above.

3.3 Further, after the issuance of notification No. 54/2018 – Central Tax dated the 9th October, 2018 , exporters who are importing goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule. All clarifications issued in this regard vide any Circular issued earlier are hereby superseded.

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 this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

F. No. 349/94/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 26th October, 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 of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor – Reg.

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

S. No	Issue	Clarification
1	Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	1. It has been noted that while applying for registration as a casual taxable person, the **FORM GST REG-1** (S. No. 11) seeks information regarding the ***"estimated net tax liability***" only and not the gross tax liability. 2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.

2.	As per section 27 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), period of operation by causal taxable person is ninety days with provision for extension of same by the proper officer for a further period not exceeding ninety days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.	1. It is clarified that in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person. 2. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business. 3. In such cases he would not be required to pay advance tax for the purpose of registration. 4. He can surrender such registration once the exhibition is over.
3.	Representations have been received regarding the manner of recovery of excess credit distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in section 20 of the CGST Act.	1. According to Section 21 of the CGST Act where the ISD distributes the credit in contravention of the provisions contained in section 20 of the CGST Act resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any. 2. The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest if any by

		using **FORM GST DRC-03**. 3. If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s) under the provisions of section 73 or 74 of the CGST Act as the case may be. **FORM GST DRC-07** can be used by the tax authorities in such cases. 4. It is further clarified that the ISD would also be liable to a general penalty under the provisions contained in section 122(1)(ix) of the CGST Act.

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 this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Commissioner (GST)

F. No. CBEC/20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 26th October, 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: Circular to clarify the procedure in respect of return of time expired drugs or medicines - Reg.

Various representations have been received seeking clarification on the procedure to be followed in respect of return of time expired drugs or medicines under the GST laws. The issues raised in the said representations have been examined and to ensure uniformity in the implementation 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 issue in succeeding paragraphs.

2. The common trade practice in the pharmaceutical sector is that the drugs or medicines (hereinafter referred to as "goods") are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be. It is significant to mention here that such goods have a defined life term which is normally referred to as the date of expiry. Such goods which have crossed their date of expiry are colloquially referred to as time expired goods and are returned back to the manufacturer, on account of expiry, through the supply chain.

3. It is clarified that the retailer/ wholesaler can follow either of the below mentioned procedures for the return of the time expired goods:

(A) Return of time expired goods to be treated as fresh supply:

a) In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it is as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, "return supply"). The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible to avail Input Tax Credit (hereinafter referred to as "ITC") of the tax levied on the said return supply subject to the fulfilment of the conditions specified in Section 16 of the CGST Act.

b) In case the person returning the time expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply.

c) In case the person returning the time expired goods is an unregistered person, he may return the said goods by issuing any commercial document without charging any tax on the same.

d) Where the time expired goods which have been returned by the retailer/wholesaler are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of the provisions of clause (h) of sub-section (5) of section 17 of the CGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

Illustration: *Supposedly, manufacturer has availed ITC of Rs. 10/- at the time of manufacture of medicines valued at Rs. 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is Rs. 15/-. So, when the time expired goods are destroyed by the manufacturer he would be required to reverse ITC of Rs. 15/- and not of Rs. 10/-.*

(B) Return of time expired goods by issuing Credit Note:

a) As per sub-section (1) of Section 34 of the CGST Act the supplier can issue a credit note where the goods are returned back by the recipient. Thus, the manufacturer or the wholesaler who has supplied the goods to the wholesaler or retailer, as the case may be, has the option to issue a credit note in relation to the time expired goods returned by the wholesaler or retailer,

as the case may be. In such a scenario, the retailer or wholesaler may return the time expired goods by issuing a delivery challan. It may be noted that there is no time limit for the issuance of a credit note in the law except with regard to the adjustment of the tax liability in case of the credit notes issued prior to the month of September following the end of the financial year and those issued after it.

b) It may further be noted that if the credit note is issued within the time limit specified in sub-section (2) of section 34 of the CGST Act, the tax liability may be adjusted by the supplier, subject to the condition that the person returning the time expired goods has either not availed the ITC or if availed has reversed the ITC so availed against the goods being returned.

c) However, if the time limit specified in sub-section (2) of section 34 of the CGST Act has lapsed, a credit note may still be issued by the supplier for such return of goods but the tax liability cannot be adjusted by him in his hands. It may further be noted that in case time expired goods are returned beyond the time period specified in the sub-section (2) of section 34 of the CGST Act and a credit note is issued consequently, there is no requirement to declare such credit note on the common portal by the supplier (i.e. by the person who has issued the credit note) as tax liability cannot be adjusted in this case.

d) Further, where the time expired goods, which have been returned by the retailer/wholesaler, are destroyed by the manufacturer, he/she is required to reverse the ITC attributable to the manufacture of such goods, in terms of the provisions of clause (h) of sub-section (5) of section 17 of the CGST Act. This has been illustrated in table below:

	Date of Supply of goods from manufacturer/ wholesaler to wholesaler/ retailer	**Date of return of time expired goods from retailer / wholesaler to wholesaler / manufacturer**	**Treatment in terms of tax liability & credit note**
Case 1	1st July, 2017	20th September, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) and the same to be uploaded by him on the common portal.

			Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC.
Case 2	1st July, 2017	20th October, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.

3. It may be noted that though this circular discusses the scenarios in relation to return of goods on account of expiry of the same, it may be applicable to such other scenarios where the goods are returned on account of reasons other than the one detailed above.

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

5. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Commissioner (GST)

F. No. 20/16/04/2018- GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 5th November, 2018

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

Madam/Sir,

Subject: Scope of principal and agent relationship under Schedule I of CGST Act, 2017 in the context of del-credere agent - Reg.

Post issuance of circular No. 57/31/2018-GST dated 4th September, 2018 from F. No. CBEC/20/16/4/2018-GST, various representations have been received from the trade and industry, as well as from the field formations regarding the scope and ambit of principal agent relationship under GST in the context of del-credere agent (hereinafter referred to as "DCA"). In order to clarify these 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 issues in succeeding paras.

2. In commercial trade parlance, a DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier. In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent. In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date. This loan

is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer. Concerns have been expressed regarding the valuation of supplies from Principal to recipient where the payment for such supply is being discharged by the recipient through the loan provided by DCA or by the DCA himself. Issues arising out of such loan arrangement have been examined and the clarifications on the same are as below:

Sl. No.	Issue	Clarification
1	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?	As already clarified *vide* circular No. 57/31/2018-GST dated 4th September, 2018, whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios: • In case where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of agent. • In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent.
2	Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?	In such a scenario following activities are taking place: 1. Supply of goods from supplier (principal) to recipient; 2. Supply of agency services from DCA to the supplier or the recipient or both; 3. Supply of extension of loan services by the DCA to the recipient. It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the

		CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply. Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier. It may be noted that vide notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 (S. No. 27), services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) has been exempted.
3.	Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?	In such a scenario following activities are taking place: 1. Supply of goods by the supplier (principal) to the DCA; 2. Further supply of goods by the DCA to the recipient; 3. Supply of agency services by the DCA to the supplier or the recipient or both; 4. Extension of credit by the DCA to the recipient. It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the

		buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. It is emphasised that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient. It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per clause (d) of sub-section (2) of section 15 of the CGST Act.

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. 20/16/04/2018- GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 5th November, 2018

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

Madam/Sir,

Subject: Collection of tax at source by Tea Board of India – Reg.

Tea Board of India (hereinafter referred to as the, "Tea Board"), being the operator of the electronic auction system for trading of tea across the country including for collection and settlement of payments, admittedly falls under the category of electronic commerce operator liable to collect Tax at Source (hereinafter referred to as, "TCS") in accordance with the provisions of section 52 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as, "the CGST Act").

2. The participants in the said auction are the sellers i.e. the tea producers and auctioneers who carry out the auction on behalf of such sellers and buyers.

3. It has been represented that the buyers in the said auction make payment of a consolidated amount to an escrow Account maintained by the Tea Board. The said consolidated amount is towards the value of the tea, the selling and buying brokerages charged by the auctioneers and also the amount charged by the Tea Board from sellers, auctioneers and buyers. Thereafter, Tea Board pays to the sellers (i.e. tea producers), from the said escrow account, for the supply of goods made by them (i.e. tea) and to the auctioneers for the supply of services made by them (i.e. brokerage). Under no circumstances, the payment is made by the Tea Board to the auctioneers on account of supply of goods i.e., tea sold at auction.

4. A representation has been received from Tea Board, seeking clarification whether they should collect TCS under section 52 of the CGST Act from the sellers of tea (i.e. the tea producers), or from the auctioneers of tea or from both.

5. The matter has been examined. In exercise of the powers conferred under sub-section (1) of section 168 of the CGST Act, for the purpose of uniformity in the implementation of the Act, it is hereby clarified, that TCS at the notified rate, in terms of section 52 of the CGST Act, shall be collected by Tea Board respectively from the -

(i) sellers (i.e. tea producers) on the net value of supply of goods i.e. tea; and

(ii) auctioneers on the net value of supply of services (i.e. brokerage).

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

7. Difficulties faced, if any, in 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. CBEC-20/16/05/2018 - GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
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New Delhi, Dated the 27th December, 2018

To,

The Principal Chief Commissioners / The Principal Directors General / Chief Commissioners / Directors General (All) / Principal Commissioners / Commissioners of Central Tax (All) / The Principal Chief Controller of Accounts, CBIC

Madam/Sir,

Subject: Guidelines for processing of applications for financial assistance under the Central Sector Scheme named 'Seva Bhoj Yojna' of the Ministry of Culture – Reg.

I. Background

1.1 The Ministry of Culture has introduced a Central Sector Scheme called the „Seva Bhoj Yojna" (hereinafter referred to as "the Scheme") for the reimbursement of central tax and the Central Government"s share of integrated tax paid (hereinafter referred to as "the said taxes") on the purchase of certain raw food items namely, ghee, edible oil, sugar/ burra/ jaggery, rice, atta/ maida/rava/flour and pulses (hereinafter referred to as the "specified items") used for distributing free food to general public/devotees (hereinafter referred to as the "specified activity") by charitable/religious institutions like Gurudwaras, temples, Dharmik Ashrams, Mosques, Dargahs, Churches, Math, Monasteries, etc(hereinafter referred to as the "institutions").

1.2 The Scheme has been made operational with effect from the 1st of August, 2018. The detailed guidelines issued in this regard by the Ministry of Culture vide F. No. 13-1/2018-US (S&F) dated 01.08.2018 are enclosed as **Annexure A**. The applications for reimbursement of the said taxes shall be processed by a designated nodal central tax officer of each State or Union territory. The officers who have been designated as nodal officers for the purpose of facilitating the processing of refund applications for UIN entities as per Circular No. 36/10/2018-GST, dated 13th March, 2018 issued vide F. No. 349/48/2017-GST shall act as nodal officers for the purposes of this Scheme as

well. The details of the nodal officers is enclosed as **Annexure B** to this Circular. The Directorate General of Goods and Services Tax (DGGST), 5th Floor, MTNL (Telephone Exchange) Building, 8, Bhikaji Kama Place, New Delhi-110066 shall be the central nodal agency for reporting and monitoring the reimbursement of the said taxes by the nodal officers under the Scheme.

II. Application for obtaining Seva Bhoj Yojana - Unique Identity Number (SBY-UIN)

2.1 The institutions opting to avail of the Scheme must first register with the Darpan Portal of NITI Aayog to obtain a Unique ID from the portal and thereafter, apply on the CSMS Portal on the Ministry of Culture"s website www.indiaculture.nic.inin the prescribed format, and upload the requisite documents. The details are contained in paragraph 7 of the guidelines issued by the Ministry of Culture **(Annexure A).**

2.2 After enrolling with the Ministry of Culture, only the eligible institutions (hereinafter referred to as the "claimant") shall be provided with a unique enrolment number by the Ministry of Culture for filing claims for the reimbursement of the said taxes. The details of the institutions enrolled under this scheme can be viewed online at https://indiaculture.nic.in/scheme-financial-assistance-under-seva-bhoj-yojna-new.

2.3 The claimant is then required to submit an application in **FORMSBY-01** for obtaining a Seva Bhoj Yojana - Unique Identity Number (hereinafter called as the "**SBY-UIN**"), to the jurisdictional nodal officer of the State/Union Territory, in which the specified activity is undertaken. The claimant must indicate the details of all the locations/branches in a State/Union territory from where the specified activity is undertaken by them in **FORM SBY-01**. Since the reimbursement of the said taxes by the nodal officers shall be done State-wise or Union territory-wise, the claimant would be required to apply for a separate **SBY-UIN** for each State or Union territory in which they undertake the specified activity.

2.4 Upon receipt of the application in **FORM SBY-01** and the information of allocation of a Unique Enrolment Number by the Ministry of Culture, a unique ten digit **SBY-UIN**, in the format of **XX/YYYYY/ZZZ** (where XX stands for the two digit State Code, YYYYY stands for the five digit Unique Enrolment Number allotted by the Ministry of Culture and ZZZ stands for the three digit running number assigned by the jurisdictional nodal officer) shall be communicated to the applicant in **FORM SBY-02** within seven days from the receipt of the complete application in **FORM SBY-01** by the nodal officer.

III. Application for claiming reimbursement of the said taxes in FORM SBY-03

3.1 All applications for reimbursement of the said taxes by a claimant shall be submitted to the nodal officer of the State/Union territory in whose jurisdiction the claimant undertakes the specified activity, on a **quarterly basis** in **FORM SBY-03, before the expiry of six months** from the last day of the quarter in which the purchases of the specified items have been made.

3.2 For the purposes of this Scheme, the term "quarter" refers to the three-month period in a calendar year from January to March, April to June, July to September and October to December. However, the claimant will be eligible for the reimbursement of the said taxes from the date of issue of the Unique Enrolment Number by the Ministry of Culture.

3.3 The application for reimbursement of the said taxes in **FORM SBY-03**shall be filed once for each quarter in respect of all the locations within the State/Union territory, which are specified in Column 6 of **FORM SBY-02,** from where the claimant undertakes the specified activity. In case the claimant undertakes the specified activity from different locations situated in more than one State or Union territory, separate applications would be required to be filed with respect to each **SBY-UIN** obtained in terms of para 2.3 above, to the jurisdictional nodal officers.

3.4 The application shall be signed by the authorised signatory of the claimant and shall be submitted along with the following documents:

a) Self-attested copies of the invoices issued by the suppliers for the purchases of the specified items mentioning the unique enrolment number allotted by the Ministry of Culture and **SBY-UIN**;

b) A Chartered Accountant"s Certificate certifying the following:

(i) quantity, price and amount of central tax, State tax/Union territory tax or integrated tax paid on the purchase of the specified items during the quarter for which the claim is filed;

(ii) the claimant is involved in charitable/religious activities;

(iii) the reimbursement claimed in the current quarter/year is not more than the purchases in the previous corresponding quarter/year plus a maximum of 2.5%/10% for the current quarter/year, as the case may be;

(iv) the claimant is using the specified items for only distributing free food to the public/devotees etc. during the claim period; and

(v) the claimant fully satisfies the conditions laid down in para 6 of the guidelines issued by the Ministry of Culture **(Annexure A).**

3.5 The nodal officer shall, within a period of fifteen days from the date of receipt of **FORM SBY-03,** scrutinize the same for its completeness and where the application is found to be complete in all respects issue an acknowledgement in **FORM SBY-04.** The same shall be communicated to the claimant clearly indicating the date of receipt of the application in **FORM SBY-03**. In case of any deficiencies, the same shall be communicated to the claimant requiring him to file a fresh application after rectification of such deficiencies within a period of 15 days from the date of receipt of the said communication.

IV. Processing of the application filed in FORM SBY-03

4.1 While processing the application filed in **FORM SBY-03**, the nodal officer shall verify the following:

a) Invoices mentioning the unique enrolment number allotted by the Ministry of Culture and the **SBY-UIN** for the purchase of the specified items have been submitted;

b) The amount claimed as reimbursement is on account of the said taxes paid on the purchase of the specified items during the claim period;

c) The amount claimed does not exceed the limit specified in para 3.4(b)(iii) above.

4.2 The nodal officer may call for any document in case he has reason to believe that the information provided in the claim is incorrect or insufficient and further enquiry is required to be carried out before the sanction of the claim.

4.3 Where, upon examination of the application, the nodal officer is satisfied that the claimant is eligible for the reimbursement of the said taxes, he shall issue an order in **FORM SBY-05** sanctioning the amount of reimbursement with full details of the Grant No. and the Functional Head (of Ministry of Culture) under which the amount is to be disbursed by the designated PAO. He shall also issue a payment advice in **FORM SBY-06** for the eligible amount based on **First-cum-First-serve** basis with regard to the date of receipt of the complete application in **FORM SBY-01**. The Nodal Officer, in the capacity of Program Division, shall be able to view the available budget (DDO specific) which would get reduced to the extent of the uploaded sanction order immediately after uploading of the sanction order. He shall enter the details on the PFMS portal under his login access; scan the sanction order (**FORM**

SBY05) and the payment Advise (**FORM SBY06**) and forward the same to the designated DDO. The designated DDO, on the basis of **FORM SBY05** and **FORM SBY06**, shall generate the bill on the PFMS portal and forward the same to the concerned PAO under his digital signature. If a sanction order is uploaded exceeding the available budget, the PAO will prepare the Bill but not be able to pass the bill due to lack of funds, and the said sanction will remain as pending. The detailed procedure to be followed by all the stakeholders for disbursal of financial assistance under the Scheme as prepared by the O/o the Pr. Chief Controller of Accounts, CBIC is enclosed as **Annexure C**.

4.4 Where the nodal officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed is not payable to the claimant, he shall issue a notice detailing the reasons thereof and requiring the claimant to furnish a reply within a period of fifteen days from the date of the receipt of such notice.

4.5 After receiving the reply, the nodal officer shall process the application and issue an order in **FORM SBY-05** either sanctioning or rejecting the amount of reimbursement claimed.

4.6 No amount shall be rejected without giving the claimant a reasonable opportunity of being heard.

4.7 The order in **FORM SBY-05** shall be issued within a period of sixty days from the date of issue of the acknowledgment in **FORM SBY-04**.

V. Reporting of the reimbursement claims filed and processed

5.1 The details of all the applications for obtaining **SBY-UIN** in **FORM SBY-01**, and its issuance thereof in **FORM SBY-02** shall be recorded in the format given in **Table A** below, along with its monthly summary in the format given in **Table B** below:

Table A - Details of applications for SBY-UIN and its grant thereof

Sl.No.	Claimant"s name	Unique ID given by the Ministry of Culture	Date of receipt of application in **FORM SBY-01**	**SBY-UIN** issued in **FORM SBY-02**	Date of issue of **FORM SBY-02**
1	2	3	4	5	6

Table B –Monthly Summary of issuance of SBY-UIN

(For the month of ____)

No. of applications received in **FORM**	No. of **SBY-UIN** issued in **FORM**

SBY-01		SBY-02	
For the month	Upto the month	For the month	Upto the month
1	2	3	4

5.2 The details of all the applications for reimbursement of the said taxes received in **FORM SBY-03** and its processing shall be recorded in the format given in **Table C** below along with its monthly summary in the format given in **Table D** below:

Table C - Details of claimsfor financial assistance under SevaBhojYojnareceived and processed

(Rs. in Lakhs)

Sl. No.	Claimant "s name	SBY-UIN	Date of receipt of application in **FORM SBY-03**	Date of issue of acknowledgment in **FORM SBY-04**	Date of issue of deficiency memo, if any	Period to which the claim pertains	Amount claimed	Date of issue of order in **FORM SBY-05**	Amount sanctioned	Amount rejected	Date of issue of Payment advice in **FORM SBY-06**
1	2	3	4	5	6	7	8	9	10	12	13

Table D–Monthly summary of Financial Assistance under Seva Bhoj Yojna

(For the month of ____)

(Rs. in Lakhs)

Opening balance		**Details of claims received**				**Details of claims sanctioned**				**Details of claims rejected**				**Closing balance**	
		Number		**Amount**		**Number**		**Amount**		**Number**		**Amount**			
No.	*Amt.*	*For the month*	*Up to the month*	*For the month*	*Up to the month*	*For the month*	*Up to the month*	*For the month*	*Up to the month*	*For the month*	*Up to the month*	*For the month*	*Up to the month*	*No.*	*Amt.*
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

5.3 The nodal officers shall send a monthly statement in **Tables B and D** to the Additional Director General, DGGST by the 10th of the following month.

5.4 DGGST shall thereafter compile the information on an all-India basis, and communicate the same to the Under Secretary, S&F Section, Ministry of Culture, with a copy to the Commissioner (GST) in the Board, by the 15th of the following month.

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

7. 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 SBY-01

Application for SBY-UIN

1.	Name of the charitable/religious institution	
2.	Type of entity (as per para 6 (i) of the Guidelines on the Scheme for Financial Assistance under „Seva Bhoj Yojna" issued by the Ministry of Culture, vide F.No. 13-1/2018-US (S&F) dated 01.08.2018)	
3.	Permanent Account Number (PAN)	
4.	GSTIN (if applicable)	
5.	Address	
6.	Details of locations within a State/Union territory where activity of distribution of free food to public is undertaken	
7.	Unique Enrollment Number allotted by the Ministry of Culture	
8.	Date of issue of unique enrollment number by the Ministry of Culture	
9.	Name of the authorized person	
10.	Email Address of the authorized person	
11.	Mobile Number of the authorized person	
12.	Bank Account Details (add more if required)	

Verification:

I hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature of the authorized person

Place:

Date:

Name of authorized person:

Designation/Status

FORM SBY-02

Seva Bhoj Yojna-Unique Identification Number (SBY-UIN)

1.	Name of the charitable/religious institution	
2.	Type of entity (as per para 6 (i) of the Guidelines on the Scheme for Financial Assistance under „SevaBhojYojna" issued by the Ministry of Culture, vide F.No. 13-1/2018-US (S&F) dated 01.08.2018)	
3.	Permanent Account Number (PAN)	
4.	GSTIN (if applicable)	
5.	Address	
6.	Details of locations within a State/Union territory where activity of distribution of free food to public is undertaken	
7.	Unique Enrollment Number allotted by the Ministry of Culture	
8.	**SevaBhojYojana Unique Identification Number(SBY-UIN)**	
9.	Date of issue of **SBY-UIN**	

Signature

Date

Name	
Designation	
Office	

FORM-SBY-03
Application for reimbursement of tax under the SevaBhojYojna Scheme

1.	Name of the charitable/religious institution			
2.	Permanent Account Number (PAN)			
3.	GSTIN (if applicable)			
4.	Address			
5.	Unique Enrollment Number allotted by the Ministry of Culture			
6.	**SBY-UIN**			
7.	Claim period (relevant quarter)	From <Year><Month>to <Year><Month>		
8.	Amount Claimed (Rs.)	Central Tax	Integrated Tax (50% of the Integrated Tax paid)	Total

9. Details of invoices:

GSTIN of the supplier	Invoice No.	Date	Taxable Value	Central Tax claimed as reimbursement	Integrated Tax claimed as reimbursement (50% of the Integrated Tax paid)	Total tax claimed as reimbursement (5+ 6)
1	2	3	4	5	6	7

10. Details of Bank Account:

Sl. No.	**Details**	
1.	Bank Account Number	
2.	Bank Account Type	
3.	Name of the Bank	
4.	Name of the Account Holder/Operator	
5.	Address of Bank Branch	
6.	IFSC	

7.	MICR	

11. Verification

I/we _____ as an authorized signatory of << Name of organization >> hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

That I/we are eligible to claim financial assistance under the Seva Bhoj Yojna and that I/we satisfy all the conditions as provided in para6 of the Guidelines on the Scheme for Financial Assistance under „Seva Bhoj Yojna" issued by the Ministry of Culture, vide F.No. 13-1/2018-US (S&F) dated 01.08.2018.

That the amount of tax claimed as reimbursement has been paid by us/me to the supplier, on the purchase of the items specified under the Seva Bhoj Yojna Scheme of the Ministry of Culture for providing the specified activity.

That no reimbursement on this account for the claim period has been received by me/us earlier.

That in case the amount sanctioned is found to be ineligible, the same shall be paid back to the Government with interest and penalty, as provided in para 14 of the Guidelines on the Scheme for Financial Assistance under „Seva Bhoj Yojna" issued by the Ministry of Culture, vide F.No. 13-1/2018-US (S&F) dated 01.08.2018.

Date: Signature of Authorised Signatory:
Place: Name:
Designation / Status

Enclosures:

1. Self-attested copies of the invoices issued by the suppliers for the purchases of the specified items mentioning the unique enrolment number allotted by Ministry of Culture and SBY-UIN;
2. A Chartered Accountant"s Certificate certifying the following:

a) Quantity, price and amount of central tax, State tax/Union territory tax or integrated tax paid on the purchase of the specified items during the quarter for which the claim is filed;
b) The institution is involved in charitable/religious activities and the specified raw food items have been used for only distributing free food to the public/devotees during the claim period.
c) the reimbursement claimed in the current quarter/year is not more than the purchases in the previous corresponding quarter/year plus a maximum of 2.5%/10% for the current quarter/year, as the case may be.
d) The charitable/religious institution is using the specified items only for distributing free food to public/devotees etc during the claim period.

e) The claimant fully satisfies the conditions laid down in para 6 of the Guidelines on the Scheme for Financial Assistance under „Seva Bhoj Yojna‟ issued by the Ministry of Culture, vide F.No. 13-1/2018-US (S&F) dated 01.08.2018.

FORM SBY-04

Acknowledgment

Applicant‟s Name :
SBY-UIN :
Acknowledgement Number :
Applicant‟s Name :

Your application for reimbursement is hereby acknowledged against <Application Reference Number>

Reimbursement Claim Details			
Claim Period			
Date and Time of Filing			
Amount Claimed	Central Tax	Integrated Tax (50% of the Integrated Tax paid)	Total

Date:
Place:

(Signature of nodal officer)

Name of the nodal officer:
Designation of the nodal officer:

FORM SBY-05

Order sanctioning/rejecting claim of reimbursement

Order No.: Date: <DD/MM/YYYY>

To
_____ (SBY-UIN)
_____ (Name of institution)
_____ (Address)

Acknowledgement No.Dated……<DD/MM/YYYY>

Order for reimbursement/rejection under the Seva Bhoj Yojna Scheme

Sir/Madam,
This has reference to your application for reimbursement of tax under the Seva Bhoj Yojna Scheme.

Upon examination of your application, the amount of reimbursement sanctioned to youis as follows:

Sl. No.	Description	Central Tax	Integrated Tax (50% of the Integrated Tax paid)	Total
1.	Amount claimed			
2.	Amount sanctioned			
3.	Amount rejected			
4.	Reason(s) for rejection, if any			
5.	Net amount to be paid to the claimant			

I hereby sanction an amount of Rs. _____ to M/s_____having SBY-UIN as the amount of central tax and centre"s share of integrated tax to be reimbursed under the Seva Bhoj Yojna Scheme, out of a total amount of Rs. _____ claimed vide application no. _____ received in this office on _____, for the claim period _____. The amount payable will be debitable to the Functional Head „**********" under Grant No….. of Ministry of Culture for the Financial Year……, under which the budget has been authorized by the Ministry of Culture to

the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance.

I hereby reject an amount of Rs. _____ from the said claim amount for reasons elaborated at Sl. No. 4 of the table above.

Date:
Place:

Signature :
Name:
Designation:
Office Address:

FORM SBY-06

Payment Advice

Payment Advice No: - Date: <DD/MM/YYYY>

To PAO(CGST/Customs)
O/o Pr. Chief controlled of Accounts
Central Board of Indirect Taxes and Customs
[Amritsar/Nasik/Tirupati/Kolkata II/Delhi]
Reimbursement Sanction Order No. ……
Order Date……<DD/MM/YYYY>…….
Name:
SBY-UIN:

Amount sanctioned (as per Order):

Description	Central Tax	Integrated Tax	Total
Amount sanctioned			

	Details of the Bank	
i.	Bank Account no as per application	
ii.	Name of the Bank	
iii.	Name and Address of the Bank /branch	
iv.	IFSC	
v.	MICR	

The amount payable will be debitable to the Functional head ********** under Grant No…….of Ministry of Culture for the Financial Year:…….under which the budget has been authorized by the Ministry of Culture to the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance.

Date: Signature:
Place: Name:
Designation:
Office Address:

To
_____ (SBY-UIN)
_____ (Name)
_____ (Address)

F. No. 13-1/2018-US (S&F)
Government of India
Ministry of Culture
P. Arts Bureau
****

Puratatva Bhawan,
GPO Complex,
INA, New Delhi.
1st August, 2018

GUIDELINES ON SCHEME FOR FINANCIAL ASSISTANCE UNDER 'SEVA BHOJ YOJNA'

1. TITLE

The scheme shall be known as **'SEVA BHOJ YOJNA'.** The Scheme shall be applicable within the territorial jurisdiction of India. The Scheme will remain open from 1st to 15th of every month. Thereafter, the scrutiny of the applications received will be carried out by duly constituted committee on monthly basis.

2. OBJECTIVE

Under the Scheme of „Seva Bhoj Yojna" Central Goods and Services Tax (CGST) and Central Government"s share of Integrated Goods and Services Tax (IGST) paid on purchase of specific raw food items by **Charitable/Religious Institutions** for distributing **free food** to public shall be reimbursed as Financial Assistance by the Government of India.

3. SCOPE

This is a Central Sector Scheme for providing reimbursement of CGST and Central Government"s share of IGST paid by **charitable/religious institutions** on purchase of specific raw food items for serving free food to public / devotees. The scheme shall be applicable only to such institutions which are eligible under the Scheme.

4. TYPE OF ACTIVITIES SUPPORTED UNDER THE SCHEME:

Free „prasad" or free food or free „langar" / „bhandara" (community kitchen) offered by **charitable/religious institutions** like Gurudwara, Temples, Dharmik Ashram, Mosques, Dargah, Church, Math, Monasteries etc. Financial Assistance will be provided on First-cum-First Serve basis of registration linked to fund available for the purpose in a Financial Year.

5. QUANTUM OF ASSISTANCE:

Financial Assistance in the form of reimbursement shall be provided where the institution has already paid GST on all or any of the raw food items listed below:

i) Ghee

ii) Edible oil

iii) Sugar / Burra / Jaggery

iv) Rice

v) Atta / Maida / Rava /Flour

vi) Pulses

The total amount of CGST and Central Government‟s share of IGST that would be reimbursed on purchases in the Financial Year 2019-20 will be capped at a maximum of 10% of the current financial year i.e. 2018-19.

6. CRITERIA FOR FINANCIAL ASSISTANCE

i) A Public Trust or society or body corporate, or organisation or institution covered under the provisions of section 10 (23BBA) of the Income Tax Act, 1961 (as amended from time to time) or registered under the provisions of section 12AA of the Income Tax Act, 1961, for **charitable/religious** purposes, or a company formed and registered under the provisions of section 8 of the Companies Act, 2013 or section 25 of the Companies Act, 1956, as the case may be, for **charitable/ religious** purposes, or a Public Trust registered as such for **charitable/religious** purposes under any Law for the time being in force, or a society registered under the Societies Registration Act, 1860, for **charitable/religious** purposes.

ii) The applicant Public Trust or society or body corporate, or organisation or institution, as the case may be, must be involved in **charitable/religious** activities by way of free and philanthropic distribution of food/prasad/langar(Community Kitchen)/ bhandara free of cost and without discrimination through the modus of public, **charitable/religious** trusts or endowments including maths, temples, gurdwaras, wakfs, churches, synagogues, agiaries or other places of public religious worship.

iii) The institutions/organizations should have been in existence for preceding three years before applying for assistance.

iv) Only those institutions would be eligible for financial assistance which have been distributing free food, langar and prasad to public for at-least past three years on the day of application. For this purpose, entities shall furnish a self- certificate.

v) Financial Assistance under the scheme shall be given only to those institutions which are not in receipt of any Financial Assistance from the Central/State Government for the purpose of distributing free food: self- certificate.

vi) The institutions shall serve free food to at least 5000 people in a calendar month.

vii) The Institution/Organization blacklisted under the provisions of Foreign Contribution Regulation Act (FCRA) or under the provisions of any Act/Rules of the Central/State Government shall not be eligible for Financial Assistance under the Scheme.

7. PROCEDURE FOR ENROLMENT

There shall be one time enrolment for eligible **Charitable/Religious Institutions** who apply under „Seva Bhoj Yojna Scheme". The Ministry of Culture will enrol eligible **Charitable/Religious Institutions** for a time period ending with Finance Commission period i.e. till 31.3.2020 and subsequently the enrolment may be reviewed / renewed by the Ministry, subject to the performance evaluation of the institutions.

Charitable/Religious Institution shall first register with Darpan Portal of NITI Aayog and get Unique ID generated by Darpan Portal (if not already obtained). Thereafter, the institution shall enrol itself in CSMS Portal on the Ministry of Culture"s website www.indiaculture.nic.in in a prescribed format. Thereafter, the **Charitable/Religious Institution** shall apply "online" in the prescribed application form and upload required documents as listed below in CSMS Portal of Ministry of Culture"s website www.indiaculture.nic.in:-

(i) Copy of the valid Registration Certificate as per the provision contained in Para 6 (i) and (ii).

(ii) Copy of Memorandum of Association/Article of Association/Charter of Activities of the organisation.

(iii) Copies of Audited Accounts for the last three years.

(iv) Copies of Annual Report, if any, for last three years.

(v) List of Office bearers/Governing Body of the institution.

(vi) Name of the authorized signatory who will sign all documents with contact details and E-mail ID.

(vii) Self-certificate indicating that the institution is distributing free food for at-least past three years on the day of application and providing free food to at least 5000 people in a month.

(viii) Certificate from District Magistrate indicating that the institution is involved in **charitable/religious** activities and is distributing free food to public/devotees etc. since last three years atleast on daily/monthly basis.

(ix) PAN/ TAN Number of the institution/ organization.

(x) List of locations where free food is being distributed by the institution.

(xi) Number of persons being served free food by the Institution in previous year - self declaration.

(xii) Bank Authorization Letter as per prescribed format.

All applications along with supporting documents received online from the institutions in the Ministry shall be examined by a Committee constituted for the purpose. Incomplete applications not supported by required documents will be summarily rejected and only eligible **charitable/religious institutions** will be permitted to claim Financial Assistance as reimbursement of CGST and Central Government‟s share of IGST paid on raw food items mentioned at Para 5 above.

8. MAINTENANCE OF ACCOUNTS BY THE CHARITABLE/RELIGIOUS INSTITUTIONS

(i) The **Charitable/Religious Institution** shall maintain a separate account of the grant received from the Central Government under the said scheme. A separate account maintained by the Institution for distribution of Free Food shall be distinct from accounts maintained for the purpose of Food/Prasad sold to public/devotees.

(ii) The bills produced by the Institution for re-imbursement shall be mandatorily in the name of registered **charitable/religious Institution**.

(iii) The Institution shall provide total number of people/persons provided free food every calendar month and shall maintain monthly purchase bills in this regard.

9. PROCEDURE FOR CLAIMING REIMBURSEMENT OF CGST

(i) **Single Authority**: There will be a one (nodal) Central Tax officer in every State / Union territory (UT) for all purposes of the scheme.

(ii) **Registration with the Central Tax officer**: After enrolling with the Ministry of Culture, the applicant shall submit an application in a specified form along with a copy of the registration certificate issued by the Ministry of Culture to the nodal Central Tax officer in the State/UT. The nodal Central Tax officer on receipt of the application and registration certificate, shall generate a Unique Identity Number (UIN) and communicate the same to the applicant.

(iii) **Timelines for refunds**: All applications for reimbursements shall be submitted on a quarterly basis in a specified form and manner before the expiry of six months from the last day of the quarter in which the purchases have been made.

(iv) **Documents to be submitted**: The following documents shall be submitted along with the application form:

- Invoices issued by the suppliers for the purchases of specified items in para no. 5 above.
- The Unique enrolment number allotted by Ministry of Culture and UIN allotted by the Central Tax authority should be mentioned on these invoices.
- **Chartered Accountant's Certificate certifying the following**:

a) Quantity, price and CGST, SGST/UTGST and IGST paid on purchase of the specified items during the claim period.

b) The **Charitable/Religious institution** is involved in **charitable/religious** activities and specified items have been used for only distributing free food to public/devotees etc. during the claim period.

c) The reimbursements claimed in the current quarter / year is not more than the previous year"s purchases in the corresponding quarter / year plus a maximum of 10% for the current year.

d) The **charitable/religious institution** is using the raw food items as mentioned in Para 5 above only for distributing free food to public/devotees etc. during the claim period.

e) The institution fully satisfies the conditions laid down in para 6 of the guidelines.

10. OUTCOME OF THE SCHEME

A Performance-cum-Achievement Report on the activity undertaken will be submitted in triplicate by the beneficiary institutions, at the beginning of next financial year, to the Ministry as per the following format:

- Location of Free Food Services:
- Cost of the Food items excluding GST:
- GST levied: Total GST paid (CGST,SGST/UTGST,IGST and amount of Financial Assistance released by ministry:
- No. of days Free food was provided in a calendar month (month-wise)
- No. of persons who were provided Free Food in a calendar month (month-wise)
- At least 12 photographs (taken on monthly basis) of Free Food Services:

11. INCOMPLETE APPLICATIONS

Incomplete applications not supported by the required documents and applications received without recommendation of the prescribed authority will be summarily rejected.

12. RELEASE OF FUNDS UNDER THE SCHEME:

The funds will be released to the institutions as per the claims verified and passed by the GST authorities. The Refund Sanction Order will be issued by the GST Authority.

13. INSPECTION AND MONITORING

Inspection would be carried out by Ministry officials or its authorized representatives every year at least in 5% of the cases. The concerned State Govt./UTs Administration, District Collector/Dy Commissioner and State GST authorities will also monitor the scheme. The Institutions /Organizations shall maintain separate account for the assistance received from the Ministry of Culture and these will be subject to inspection/audit by the officers of the Ministry or any other agency designated by the Ministry.

At the end of the Financial Year 2018-19, the Physical and Financial progress of the Scheme will be measured by the Ministry of Culture

14. PENALTIES IN CASE OF MISUSE OF ASSISTANCE /GRANT

The members of the executive body of the entity /institution would be liable for recovery of misused grants. The organization /institution will also be blacklisted for misuse of funds, fake registration certificate, fake documents etc. All immovable and movable assets created from the Government grants would be taken over by local administration prescribed by the Ministry. The assistance provided by the Ministry of Culture shall be recovered with penal interest, apart from taking criminal action as per law.

****

Annexure – B
Circular No. 75/49/2018-GST

List of Nodal Officers					
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 Comissioner	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.Jaypal J, 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 ParyawasBhawan, Bhopal	Mr. Piyush Thorat, Assistant Commissioner	0755-2761620, piyushthorat19@gmail.com
21	Maharashtra	Mumbai Central	4th Floor, GST Bhavan, 115, M.K.Road, OppChurchgate 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-	Mr. Gopeswar Chandra Paul, Assistant Commissioner	0386-2351772, paul.gopeswar3@gmail.com

			797112		
26	NCT of Delhi	Delhi (South)	2nd & 3rd Floor, EIL Annexe Building, BhikajiCama Place, New Delhi, Delhi 110066	Ms. Priyanka Gulati, Assistant Commissioner	011-40785842 shikhar.pant@gov.in
27	Odisha	Bhubaneshwar	C.R. Building, (GST Bhawan),RajaswaVihar, Bhubaneshwar-751007	Mr. Sateesh Chandar, Joint Commissioner	0674-2589694 sateesh.chandar@nic.in
28	Puducherry	Puducherry	I, Goubert Avenue (Beach Road), Puducherry -605001.	A. Syamsundar, 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 Byepass 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	Mr. Subha Chandran, Assistant Commissioner	044-28331177, 044-28331188, commr-cexchn1@nic.in
33	Telangana	Hyderabad	O/o the Principal Commissioner of Central Tax, Hyderabad GST Commissionerate, GST	Mr. P. Anand Kumar, Additional Commissioner	040-23240725, ak.pulapaka@gov.in

			Bhawan, L B Stadium Road, Basheerbagh, Hyderabad - 500004.		
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. A.S. Rawat, Assistant Commissioner	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

Procedure for Disbursal of Financial Assistance and Accounting

Seva Bhoj Yojana (SBY), Ministry of Culture

version date: 10/10/2018

Pr. Chief Controller of Accounts
Central Board of Indirect Taxes& Customs
Department of Revenue
Ministry of Finance

1. Background:

The Scheme of Financial Assistance under „Seva Bhoj Yojna" (SBY) has been launched by the Ministry of Culture from the financial year 2018-19 vide Order No. 13-I/2018-US (S&F) dated 31st May 2018. Under this Scheme, the Government of India shall reimburse the CGST and Central government"s share of IGST paid on the purchase of specific items by charitable institutions for distributing free food to the public. The Guidelines have been issued in this regard by Ministry of Culture vide F. No. 13-1/2016-US (S&F) dated 1st August 2018.

2. Authorization of Budget by Ministry of Culture:

i) The budget under the Central Scheme of SBY will be authorized by the Ministry of Culture to CBIC in accordance with the LOA Module of PFMS.

ii) The 15 digit accounting codes under the Charter of Accounts will be as follows.

Grant No. : (Will change year to year)
Major Head:
Submajor / Minor Head:
Subhead:
Detailed/Object Head:

} (Ministry of Culture will provide)

iii) As per the LOA module of PFMS the budget will be authorized DDO wise Location wise by the Pr. Accounts office of Ministry of Culture to Pr. Accounts office of CBIC, Department of Revenue.

3. PAOs designated for disbursal of payments under the Scheme:

Following five PAOs have been designated for making payment & accounting under the scheme:

Zone	PAO
North	PAO, Customs, Amritsar (Code 050240)
East	PAO, GST, Kolkata II (Code 052679)
West	PAO, Nasik (Code 054975)
South	PAO, Tirupati (Code 055240)
Central	PAO, GST, Delhi (Code 051493)

The zone-wise grouping of States & 8 UTs against the designated zonal PAOs is attached at Annexure „A"

4. Creation of DDOs for processing of claims under the Scheme:

i) State/UT-wise new DDOs (36 in nos.) will be created which will be duly mapped with the 5 PAOs (as per Point 3 above). Existing DDOs authorized for payment to the UIN entities may operate as DDOs for processing of payments under the SBY scheme also but with new DDO Codes.

ii) Request for opening of new DDO Code will be forwarded to the Accounts Officer **(Revenue Coordination), O/o Pr. Chief Controller of Accounts, Central Board of Indirect Taxes, 1st Floor, DGACR Building, I.P. Estate, New Delhi 110002 in the Format as given in Annexure 'B'** under the signatures of the competent authority of the concerned Commissionerate.

iii) The request for allotment of DDO code shall be forwarded by the O/o Pr. CCA, CBIC to O/o CGA. Once allotted, the same shall be conveyed by the O/o Pr. CCA to the concerned DDO, Nodal offices and Commissionerate.

5. Issuance of sanction by the Nodal Officers

i) The Scheme envisages reimbursement of only Central GST and Central Government"s share of Integrated Tax (IGST). The applications for reimbursements of such taxes shall be processed by the nodal officer in each State/UT. [The officers who have been designated as nodal officers for the purpose of facilitating the processing of refund claims for UIN entities as Circular No. 36/10/2018-GST dated 13th March 2018 shall act as nodal officers for the purpose of this scheme also.] (As per para 1.2 of Circular no. dated issued by CBIC)

ii) Existing Nodal Officer(s) appointed for UIN entities will process the applications under the SBY Scheme and they shall, in their capacity as Sanctioning Authority, act as Program Division (PD) on PFMS platform

iii) Where upon examination of the application of refund by the charitable institutions, the nodal officer is satisfied in respect of the correctness of the claim and that the reimbursement is due and payable to the applicant, he shall issue a sanction order in FORM SBY05 rejecting; or otherwise sanctioning the amount of reimbursement with full details of the Grant No. and the functional head (of Ministry of Culture) under which the amount is to be disbursed by the PAO. The Nodal Officer shall also issue the Payment Advice addressed to the concerned PAO in FORM SBY06.

6. Preparation of Bill by DDO & Payment by PAO under the Scheme:

i) The Nodal Officer, in the capacity of Sanctioning Authority (recognized on PFMS as Program Division), shall ensure the availability of budget on PFMS, and thereafter enter the Sanction details (SBY05) and the details of Payment Advice (SBY06) as required in PFMS under his login access. He will also upload the scanned copy of the Sanction Order and Payment Advice and forward the same to the designated DDO. The DDO shall also first check the availability of budget and then generate a bill and forward it to the concerned PAO under his digital signatures. No physical document (SBY05/SBY06 etc.) will be sent by the DDO as the same are forwarded with digital signatures of the DDO.

ii) The designated PAO shall pass/reject the bill for payment as per the existing payment protocols being followed for payments through PFMS portal after exercising due diligence. **The PAO shall take a print out of the Sanction Order (SBY05) and Payment Advice (SBY06) so uploaded on PFMS by the Nodal Officer (Sanctioning Authority) for audit trail.**

iii) The Bill will be returned to the DDO by PAO if the sufficient budget is not available.

iv) The unspent portion of the budget, if any, authorized by Ministry of Culture at the end of each financial year will lapse as per the Accounting Rules and fresh authorization from the budget of subsequent financial year would be required to pass the bills received in the new financial year.

v) The bills pending with the PAO at the end of a financial year for want of budget shall be returned by the PAO and the bills with revalidated Sanction Order (SBY05) shall be forwarded to the concerned PAO after the Letter of Authorization for allocation of budget to CBIC is provided in the next financial year.

vi) No manual payment will be allowed in the system.

7. Responsibilities of the PAOs under the Scheme:

i) Periodical Reports (Monthly/Quarterly) will be generated by the designated PAOs and shared with the Pr. A.O, CBIC. The Pr. Accounts Office shall further share the report with the Pr. Accounts Office, Ministry of Culture for reconciliation purposes.

ii) In the case of authorized budget is exhausted, the payments will not be made by the PAO till the budget is augmented by Ministry of Culture.

iii) At the end of financial year, the Bills which are kept in abeyance for want of sufficient budget provisions will be returned to the concerned Divisions for revalidation and resubmission in next financial year with new e-Bill Number.

8 Recovery provisions in case of excess/ wrongful payment:

In case of any excess/wrongful payment is made on the basis if the double sanction or for any other reason, the same will be recovered by the sanctioning authority from the beneficiary. The recovered amount will be received in the form of Banks" DD and will be deposited in the Government Accounts by the concerned DDO through Challans in the scheme Head of Seva Bhoj Yojana. The accounting of such recovery amount will be done by the PAO with whom the concerned DDO is mapped.

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F. No. CBEC-20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
*****

New Delhi, Dated the 31st December, 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 certain issues (sale by government departments to unregistered person; leviability of penalty under section 73(11) of the CGST Act; rate of tax in case of debit notes / credit notes issued under section 142(2) of the CGST Act; applicability of notification No. 50/2018-Central Tax; valuation methodology in case of TCS under Income Tax Act and definition of owner of goods) related to GST-Reg.

Various representations have been received seeking clarification on certain issues under the GST laws. In order to clarify these 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 the "CGST Act") hereby clarifies the issues as below:

Sl. No	Issue	Clarification
1.	Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?	1. It may be noted that intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority is a taxable supply under GST. 2. Vide notification No. 36/2017-Central

		Tax (Rate) and notification No. 37/2017-Integrated Tax (Rate) both dated 13.10.2017, it has been notified that intra-State and inter-State supply respectively of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by the Central Government, State Government, Union territory or a local authority to any ***registered person***, would be subject to GST on reverse charge basis as per which tax is payable by the recipient of such supplies. 3. A doubt has arisen about taxability of intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority to an ***unregistered person***. 4. It was noted that such supply to an unregistered person is also a taxable supply under GST but is not covered under notification No. 36/2017-Central Tax (Rate) and notification No. 37/2017-Integrated Tax (Rate) both dated 13.10.2017. 5. In this regard, it is clarified that the respective Government departments (i.e. Central Government, State Government, Union territory or a local authority) shall be liable to get registered and pay GST on intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made

		by them to an ***unregistered person*** subject to the provisions of sections 22 and 24 of the CGST Act.
2.	Whether penalty in accordance with section 73 (11) of the CGST Act should be levied in cases where the return in **FORM GSTR-3B** has been filed after the due date of filing such return?	1. As per the provisions of section 73(11) of the CGST Act, penalty is payable in case self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax. 2. It may be noted that a show cause notice (SCN for short) is required to be issued to a person where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised for any reason under the provisions of section 73(1) of the CGST Act. The provisions of section 73(11) of the CGST Act can be invoked only when the provisions of section 73 are invoked. 3. The provisions of section 73 of the CGST Act are generally not invoked in case of delayed filing of the return in **FORM GSTR-3B** because tax along with applicable interest has already been paid but after the due date for payment of such tax. It is accordingly clarified that penalty under the provisions of section 73(11) of the CGST Act is not payable in such cases. It is further clarified that since the tax has been paid late in contravention of the provisions of the CGST Act, a general penalty under section 125 of the CGST

		Act may be imposed after following the due process of law.
3.	In case a debit note is to be issued under section 142(2)(a) of the CGST Act or a credit note under section 142(2)(b) of the CGST Act, what will be the tax rate applicable – the rate in the pre-GST regime or the rate applicable under GST?	1. It may be noted that as per the provisions of section 142(2) of the CGST Act, in case of revision of prices of any goods or services or both on or after the appointed day (i.e., 01.07.2017), a supplementary invoice or debit/credit note may be issued which shall be deemed to have been issued in respect of an outward supply made under the CGST Act. 2. It is accordingly clarified that in case of revision of prices, after the appointed date, of any goods or services supplied before the appointed day thereby requiring issuance of any supplementary invoice, debit note or credit note, the rate as per the provisions of the GST Acts (both CGST and SGST or IGST) would be applicable.
4.	Applicability of the provisions of section 51 of the CGST Act (TDS) in the context of notification No. 50/2018-Central Tax dated 13.09.2018.	1. A doubt has arisen about the applicability of long line mentioned in clause (a) of notification No. 50/2018- Central Tax dated 13.09.2018. 2. It is clarified that the long line written in clause (a) in notification No. 50/2018-Central Tax dated 13.09.2018 is applicable to both the items (i) and (ii) of clause (a) of the said notification. Thus, an authority or a board or any other body whether set up by an Act of Parliament or a State Legislature or established by any Government with fifty-one per cent. or more participation by way of equity or

		control, to carry out any function would only be liable to deduct tax at source. 3. In other words, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which fifty one per cent. or more participation by way of equity or control is with the Government.
5.	What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?	1. Section 15(2) of CGST Act specifies that the value of supply shall include "any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier." 2. It is clarified that as per the above provisions, taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS.
6.	Who will be considered as the „owner of the goods" for the purposes of section 129(1) of the CGST Act?	It is hereby clarified that if the invoice or any other specified document is accompanying the consignment of goods, then either the consignor or the consignee should be deemed to be the owner. If the invoice or any other specified document is not accompanying the consignment of goods, then in such cases, the proper officer should determine who should be declared as the owner of the goods.

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 this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Commissioner (GST)

F. No. CBEC-20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
*****

New Delhi, Dated the 31st December, 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: Denial of composition option by tax authorities and effective date thereof - Reg.

Rule 6 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") deals with the validity of the composition levy. As per the said rule, the option exercised by a registered person to pay tax under the composition scheme shall remain valid so long as he satisfies the conditions mentioned in section 10 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") and the CGST Rules. The rule lays down the procedure for withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme and also the procedure for denial of option to the taxpayer to pay tax under the said scheme where he has contravened the provisions of the CGST Act or the CGST Rules.

2. In this connection, doubts have been raised as to the date from which withdrawal from the composition scheme shall take effect in a case where the composition taxpayer has exercised such option to withdraw. Doubts have also been raised regarding the effective date of denial of the option to pay tax under the composition scheme where action has been initiated by the tax authorities to deny such option to the composition taxpayer. Further, clarification has been sought regarding the follow up action to be taken by the tax authorities when the composition option is denied to the taxpayer retrospectively. In order to clarify these 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 by section 168 (1) of the CGST Act, hereby clarifies the issues raised as below.

3. Sub-rule (2) of rule 6 of the CGST Rules provides that the composition taxpayer shall pay tax under sub-section (1) of section 9 of the CGST Act as a normal taxpayer from the day he ceases to satisfy any of the conditions of the composition scheme and shall issue tax invoice for every taxable supply made thereafter. Sub-rule (3) of rule 6 of the CGST Rules provides that the registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in **FORM GST CMP-04** on the common portal. He shall file intimation for withdrawal from the scheme in **FORM GST CMP-04** within seven days of the occurrence of such event.

4. As per sub-rule (4) of rule 6 of the CGST Rules, where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 of the CGST Act or has contravened the provisions of the CGST Act or the CGST Rules, he may issue a notice to such person in **FORM GST CMP-05** to show cause as to why the option to pay tax under section 10 of the CGST Act shall not be denied. Upon receipt of the reply to the show cause notice from the registered person in **FORM GST CMP-06**, the proper officer shall, in accordance with the provisions of sub-rule (5) of rule 6 of the CGST Rules, issue an order in **FORM GST CMP-07** within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 of the CGST Act from the date of the option or from the date of the event concerning such contravention, as the case may be.

5. It is clarified that in a case where the taxpayer has sought withdrawal from the composition scheme, the effective date shall be the date indicated by him in his intimation/application filed in **FORM GST CMP-04** but such date may not be prior to the commencement of the financial year in which such intimation/application for withdrawal is being filed**.** If at any stage it is found that he has contravened any of the provisions of the CGST Act or the CGST Rules, action may be initiated for recovery of tax, interest and penalty. In case of denial of option by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date as may be determined by tax authorities, but shall not be prior to the date of contravention of the provisions of the CGST Act or the CGST Rules. In such cases, as provided under sub-section (5) of section 10 of the CGST Act, the proceedings would have to be initiated under the provisions of section 73 or section 74 of the CGST Act for determination of tax, interest and penalty for the period starting from the date of contravention of provisions till the date of issue of order in **FORM GST CMP-07.** It is also clarified that the registered person shall be liable to pay tax under section 9 of the CGST Act from the date of issue of the order in **FORM GST CMP-07**.

Provisions of section 18(1)(c) of the CGST Act shall apply for claiming credit on inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the date immediately preceding the date of issue of the order.

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

7. Difficulties, if any, faced in implementation of the above instructions may be brought to the notice of the Board at an early date. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

F. No. CBEC-20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
*****

New Delhi, Dated the 31st December, 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 export of services under GST – Reg.

Representations have been received seeking clarification on certain issues relating to export of services under the GST laws. The same have been examined and the clarifications on the same are as below:

Sl. No.	Issue	Clarification
1.	In case an exporter of services outsources a portion of the services contract to another person located outside India, what would be the tax treatment of the said portion of the contract at the hands of the exporter? There may be instances where the full consideration for the outsourced services is not received by the exporter in India.	1. Where an exporter of services located in India is supplying certain services to a recipient located outside India, either wholly or partly through any other supplier of services located outside India, the following two supplies are taking place:- (i) Supply of services from the exporter of services located in India to the recipient of services located outside India for the full contract value; (ii) Import of services by the exporter of services located in India from the supplier of services located outside India with respect to the outsourced

		portion of the contract. Thus, the total value of services as agreed to in the contract between the exporter of services located in India and the recipient of services located outside India will be considered as export of services if all the conditions laid down in section 2(6) of the Integrated Goods and Services Tax Act, 2017 (IGST Act for short) read with section 13(2) of the IGST Act are satisfied. 2. It is clarified that the supplier of services located in India would be liable to pay integrated tax on reverse charge basis on the import of services on that portion of services which has been provided by the supplier located outside India to the recipient of services located outside India. Furthermore, the said supplier of services located in India would be eligible for taking input tax credit of the integrated tax so paid. 3. Thus, even if the full consideration for the services as per the contract value is not received in convertible foreign exchange in India due to the fact that the recipient of services located outside India has directly paid to the supplier of services located outside India (for the outsourced part of the services), that portion of the consideration shall also be treated as receipt of consideration for export of services in terms of section 2(6)(iv) of the IGST Act, provided the: (i) integrated tax has been paid by the

		supplier located in India for import of services on that portion of the services which has been directly provided by the supplier located outside India to the recipient of services located outside India; and (ii) RBI by general instruction or by specific approval has allowed that a part of the consideration for such exports can be retained outside India. *Illustration*: ABC Ltd. India has received an order for supply of services amounting to $ 5,00,000/- to a US based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not merely an establishment of a distinct person viz. ABC Ltd. India, in accordance with the Explanation 1 in Section 8 of the IGST Act) to supply a part of the services (say 40% of the total contract value). ABC Ltd. India shall be the exporter of services for the entire value if the invoice for the entire amount is raised by ABC Ltd. India. The services provided by XYZ Ltd. Mexico to the US based client shall be import of services by ABC Ltd. India and it would be liable to pay integrated tax on the same under reverse charge and also be eligible to take input tax credit of the integrated tax so paid. Further, if the provisions contained in section 2(6) of the IGST Act are not fulfilled with respect to the realization of convertible foreign exchange, say only 60% of the

		consideration is received in India and the remaining amount is directly paid by the US based client to XYZ Ltd. Mexico, even in such a scenario, 100% of the total contract value shall be taken as consideration for the export of services by ABC Ltd. India provided integrated tax on import of services has been paid on the part of the services provided by XYZ Ltd Mexico directly to the US based client and RBI (by general instruction or by specific approval) has allowed that a part of the consideration for such exports can be retained outside India. In other words, in such cases, the export benefit will be available for the total realization of convertible foreign exchange by ABC Ltd. India and XYZ Ltd. Mexico.

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 this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Commissioner (GST)

F. No. CBEC-20/16/04/2018 - GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
*****

New Delhi, Dated the 31st December, 2018

To,

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

Madam/Sir,

Subject: Clarification on refund related issues – Reg.

Various representations have been received seeking clarification on various issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of 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 (hereinafter referred to as "CGST Act"), hereby clarifies the issues detailed hereunder:

Physical submission of refund claims with jurisdictional proper officer:

2. Due to the non-availability of the complete electronic refund module, a work around was prescribed vide Circular No. 17/17/2017-GST dated 15.11.2017 and Circular No. 24/24/2017-GST dated 21.12.2017, wherein a taxpayer was required to file **FORM GST RFD-01A** on the common portal, generate the Application Reference Number (ARN), take print-outs of the same, and submit it physically in the office of the jurisdictional proper officer, along with all the supporting documents. It has been learnt that this requirement of physical submission of documents in the jurisdictional tax office is causing undue hardship to the taxpayers. Therefore, in order to further simplify the refund process, the following instructions, in partial modification of the aforesaid circulars, are issued:

a) All documents/undertaking/statements to be submitted along with the claim for refund in **FORM GST RFD-01A** shall be uploaded on the common portal at the time of filing of the refund application. Circular No. 59/33/2018-GST dated 04.09.2018 specified that instead of providing copies of all invoices, a statement of invoices needs to be submitted in a prescribed format and copies of only those invoices need to

be submitted the details of which are not found in **FORM GSTR-2A** for the relevant period. It is now clarified that the said statement and these invoices, instead of being submitted physically, shall be electronically uploaded on the common portal at the time of filing the claim of refund in **FORM GST RFD-01A**. Neither the application in **FORM GST RFD-01A**, nor any of the supporting documents, shall be required to be submitted physically in the office of the jurisdictional proper officer.

b) However, the taxpayer will still have the option to physically submit the refund application to the jurisdictional proper officer in **FORM GST RFD-01A**, along with supporting documents, if he so chooses. A taxpayer who still remains unallocated to the Central or State Tax Authority will necessarily have to submit the refund application physically. They can choose to do so before the jurisdictional proper officer of either the State or the Central tax authority, as was earlier clarified vide Circular No. 17/17/2017 - GST dated 15.11.2017.

c) The ARN will be generated only after the claimant has completed the process of filing the refund application in **FORM GST RFD-01A**, and has completed uploading of all the supporting documents/undertaking/statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.

d) As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the jurisdictional proper officer who shall be able to view it on the system. The application shall be deemed to have been filed under rule 90(2) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules") on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement shall be counted from that date. This will obviate the need for a claimant to visit the jurisdictional tax office for the submission of the refund application. Accordingly, the acknowledgement for the complete application or deficiency memo, as the case may be, would be issued by the jurisdictional tax officer based on the documents so received electronically from the common portal. However, the said acknowledgement or deficiency memo shall continue to be issued manually for the time being.

e) If a refund application is electronically transferred to the wrong jurisdictional officer, he/she shall reassign it to the correct jurisdictional officer electronically within a period of three days. In such cases, the application shall be deemed to have been filed under rule 90(2) of the CGST Rules only after it has been so reassigned. Deficiency

memos shall not be issued in such cases merely on the ground that the applications were received electronically in the wrong jurisdiction. Where the facility of electronic re-assignment is not available, the present arrangement shall continue.

f) It has already been clarified vide Circular No. 70/44/2018-GST dated 26.10.2018 that after the issuance of a deficiency memo, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only**.** It is further clarified that the rectified application, which is to be treated as a fresh refund application, will be submitted manually in the office of the jurisdictional proper officer.

3. It may be noted that the documents/statements/undertakings/invoices to be submitted along with the refund application in **FORM GST RFD-01A** are the same as have been prescribed under the CGST Rules and various Circulars issued on the subject from time to time. Only the method of submission of these documents/statements/undertakings/invoices is being changed from the physical mode to the electronic mode. It may also be noted that the other stages of processing of a refund claim submitted in **FORM GST RFD-01A** by the jurisdictional tax officer shall continue to be carried out manually for the time being, as is being presently done.

Calculation of refund amount for claims of refund of accumulated Input Tax Credit (ITC) on account of inverted duty structure:

4. Representations have been received stating that while processing the refund of unutilized ITC on account of inverted tax structure, the departmental officers are denying the refund of ITC of GST paid on those inputs which are procured at equal or lower rate of GST than the rate of GST on outward supply, by not including the amount of such ITC while calculating the maximum refund amount as specified in rule 89(5) of the CGST Rules. The matter has been examined and the following issues are clarified:

a) Refund of unutilized ITC in case of inverted tax structure, as provided in section 54(3) of the CGST Act, is available where ITC remains unutilized even after setting off of available ITC for the payment of output tax liability. Where there are multiple inputs attracting different rates of tax, in the formula provided in rule 89(5) of the CGST Rules, the term „Net ITC" covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax.

b) The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with help of the following example:

i. Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18 per cent GST) to manufacture output Y (attracting 12 per cent GST).

ii. The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.

iii. Further assume that the claimant supplies the output Y having value of Rs. 3,000/- during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be Rs. 3,000/-. Since the claimant has no other outward supplies, his adjusted total turnover will also be Rs. 3,000/-.

iv. If we assume that Input A, having value of Rs. 500/- and Input B, having value of Rs. 2,000/-, have been purchased in the relevant period for the manufacture of Y, then Net ITC shall be equal to Rs. 385/- (Rs. 25/- and Rs. 360/- on Input A and Input B respectively).

v. Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of Rs. 385/-.

vi. From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs. 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is Rs. 25/-.

Disbursal of refund amounts after sanction:

5. Section 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days of the date of receipt of application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the claimant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the claimant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of

the application till the date on which the amount is credited to the bank account of the claimant. Accordingly, all tax authorities are advised to issue the final sanction orders in **FORM GST RFD-06** within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days by both Central and State Tax Authorities for CGST / IGST / UTGST / Compensation Cess and SGST respectively.

Refund applications that have been generated on the portal but not physically received in the jurisdictional tax offices:

6. There are a large number of applications for refund in **FORM GST RFD-01A** which have been generated on the common portal but have not yet been physically received in the jurisdictional tax offices. With the implementation of electronic submission of refund application, as detailed in para 2 above, this problem is expected to reduce. However, for the applications (except those relating to refund of excess balance in the electronic cash ledger) which have been generated on the common portal before the issuance of this Circular and which have not yet been physically received in the jurisdictional offices (list of all applications pertaining to a particular jurisdictional office which have been generated on the common portal, if not already available, may be obtained from DG-Systems), the following guidelines are laid down:

a) All refund applications in which the amount claimed is less than the statutory limit of Rs. 1,000/- should be rejected and the amount re-credited to the electronic credit ledger of the applicant through the issuance of **FORM GST RFD-01B**.

b) For all applications wherein an amount greater than Rs. 1000/- has been claimed, a list of applications which have not been received in the jurisdictional tax office within a period of 60 days starting from the date of generation of ARN may be compiled. A communication may be sent to all such claimants on their registered email ids, informing that the application needs to be physical submitted to the jurisdictional tax office within 15 days of the date of the email. The contact details and the address of the jurisdictional officer may also be provided in the said communication. The claimant may be further informed that if he/she fails to physically submit the application within 15 days of the date of the email, the application shall be summarily rejected and the debited amount, if any, shall be re-credited to the electronic credit ledger.

7. For the applications generated on the common portal before the issuance of this Circular in relation to refund of excess balance from the electronic cash ledger which have not yet been received in the jurisdictional office, the amount debited in the electronic cash

ledger in such applications may be re-credited through **FORM GST RFD-01B** provided that there are no liabilities in the electronic liability register. The said amount shall be re-credited even though the return in **FORM GSTR-3B**, as the case may be for the relevant period has not been filed.

8. For the refund applications generated on the common portal after the issuance of this Circular, and for the refund applications generated on the common portal before the issuance of this Circular and which have been physically received in the jurisdictional tax offices before the issuance of this Circular, the existing guidelines, as modified by this Circular may be followed.

Issues related to refund of accumulated Input Tax Credit of Compensation Cess:

9. Several representations have been received requesting clarifications on certain issues related to refund of accumulated input tax credit of compensation cess on account of zero-rated supplies made under Bond/Letter of Undertaking. These issues have been examined and are clarified as below:

a) **Issue:** A registered person uses inputs on which compensation cess is leviable (E.g. coal) to export goods on which there is no levy of compensation cess (E.g. aluminum). For the period July, 2017 to May, 2018, no ITC is availed of the compensation cess paid on the inputs received during this period. ITC is only availed of the CGST, SGST/UTGST or IGST charged on the invoices for these inputs. This ITC is utilized for payment of IGST on export of goods. Vide Circular No. 45/19/2018-GST dated 30.05.2018, it was clarified that refund of accumulated ITC of compensation cess on account of zero-rated supplies made under Bond/Letter of Undertaking is available even if the exported product is not subject to levy of cess. After the issuance of this Circular, the registered person decides to start exporting under bond/LUT without payment of tax. He also decides to avail (through the return in **FORM GSTR-3B**) the ITC of compensation cess, paid on the inputs used in the months of July, 2017 to May, 2018, in the month of July, 2018. The registered person then goes on to file a refund claim for ITC accumulated on account of exports for the month of July, 2018 and includes the said accumulated ITC for the month of July, 2018. How should the amount of compensation cess to be refunded be calculated?

Clarification: In the instant case, refund on account of compensation cess is to be recomputed as if the same was available in the respective months in which the refund of unutilized credit of CGST/SGST/UTGST/IGST was claimed on account of exports made under LUT/Bond. If the aggregate of these recomputed amounts of refund of

compensation cess is less than or equal to the eligible refund of compensation cess calculated in respect of the month in which the same has actually been claimed, then the aggregate of the recomputed refund of compensation cess of the respective months would be admissible. Further, the recomputed amount of eligible refund (of compensation cess) in respect of past periods, as aforesaid, would not be admissible in respect of consignments exported on payment of IGST. This process would be applicable for application for refund of compensation cess (not claimed earlier) in respect of the past period.

b) **Issue:** A registered person uses coal for the captive generation of electricity which is further used for the manufacture of goods (say aluminium) which are exported under Bond/Letter of Undertaking without payment of duty. Refund claim is filed for accumulated Input Tax Credit of compensation cess paid on coal. Can the said refund claim be rejected on the ground that coal is used for the generation of electricity which is an intermediate product and not the final product which is exported and since electricity is exempt from GST, the ITC of the tax paid on coal for generation of electricity is not available?

   Clarification: There is no distinction between intermediate goods or services and final goods or services under GST. Inputs have been clearly defined to include any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Since coal is an input used in the production of aluminium, albeit indirectly through the captive generation of electricity, which is directly connected with the business of the registered person, input tax credit in relation to the same cannot be denied.

c) **Issue:** A registered person avails ITC of compensation cess (say, of Rs. 100/-) paid on purchases of coal every month. At the same time, he reverses a certain proportion (say, half i.e. Rs. 50/-) of the ITC of compensation cess so availed on purchases of coal which are used in making zero rated outward supplies. Both these details are entered in the **FORM GSTR-3B** filed for the month as a result of which an amount of Rs. 50/- only is credited in the electronic credit ledger. The reversed amount (Rs. 50/-) is then shown as a 'cost' in the books of accounts of the registered person. However, the registered person declares Rs. 100/- as 'Net ITC' and uses the same in calculating the maximum refund amount which works out to be Rs. 50/- (assuming that export turnover is half of total turnover). Since both the balance in the electronic credit ledger at the end of the tax period for which the claim of refund is being filed and the

balance in the electronic credit ledger at the time of filing the refund claim is Rs. 50/- (assuming that no other debits/credits have happened), the system will proceed to debit Rs. 50/- from the ledger as the claimed refund amount. The question is whether the proper officer should sanction Rs. 50/- as the refund amount or Rs. 25/- (i.e. half of the ITC availed after adjusting for reversals)?

Clarification: ITC which is reversed cannot be held to have been 'availed' in the relevant period. Therefore, the same cannot be part of refund of unutilized ITC on account of zero-rated supplies. Moreover, the reversed ITC has been accounted as a cost which would have reduced the income tax liability of the claimant. Therefore, the same amount cannot, at the same time, be refunded to him/her in the ratio of export turnover to total turnover. However, if the said reversed amount is again availed in a later tax period, subject to the restriction under section 16(4) of the CGST Act, it can be refunded in the ratio of export turnover to total turnover in that tax period in the same manner as detailed in para 9(a) above. This is subject to the restriction that the accounting entry showing the said ITC as cost is also reversed.

Non-consideration of ITC of GST paid on invoices of earlier tax period availed in subsequent tax period:

10. Presently, ITC is reflected in the electronic credit ledger on the basis of the amount of the ITC availed on self declaration basis in **FORM GSTR-3B** for a particular tax period. It may happen that the goods purchased against a particular tax invoice issued in a particular month, say August 2017, may be declared in the **FORM GSTR-3B** filed for a subsequent month, say September 2017. This is inevitable in cases where the supplier raises an invoice, say in August, 2017, and the goods reach the recipient‟s premises in September, 2017. Since GST law mandates that ITC can be availed only after the goods are received, the recipient can only avail the ITC on such goods in the **FORM GSTR-3B** filed for the month of September, 2017. However, it has been observed that field officers are excluding such invoices from the calculation of refund of unutilized ITC filed for the month of September, 2017.

11. In this regard, it is clarified that „Net ITC‟ as defined in rule 89(4) of the CGST Rules means input tax credit availed on inputs and input services during the relevant period. Relevant period means the period for which the refund claim has been filed. Input tax credit can be said to have been „availed‟ when it is entered into the electronic credit ledger of the registered person. Under the current dispensation, this happens when the said taxable person files his/her monthly return in **FORM GSTR-3B.** Further, section 16(4) of the CGST Act

stipulates that ITC may be claimed on or before the due date of filing of the return for the month of September following the financial year to which the invoice pertains or the date of filing of annual return, whichever is earlier. Therefore, the input tax credit of invoices issued in August, 2017, „availed" in September, 2017 cannot be excluded from the calculation of the refund amount for the month of September, 2017.

Misinterpretation of the meaning of the term "inputs":

12. It has been represented that on certain occasions, departmental officers do not consider ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, as part of Net ITC on the grounds that these are not directly consumed in the manufacturing process and therefore, do not qualify as input. There are also instances where stores and spares charged to revenue are considered as capital goods and therefore the ITC availed on them is not included in Net ITC, even though the value of these goods has not been capitalized in his books of account by the claimant.

13. In relation to the above, it is clarified that the input tax credit of the GST paid on inputs shall be available to a registered person as long as he/she uses or intends to use such inputs for the purposes of his/her business and there is no specific restriction on the availment of such ITC anywhere else in the GST Act. The GST paid on inward supplies of stores and spares, packing materials etc. shall be available as ITC as long as these inputs are used for the purpose of the business and/or for effecting taxable supplies, including zero-rated supplies, and the ITC for such inputs is not restricted under section 17(5) of the CGST Act. Further, capital goods have been clearly defined in section 2(19) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

Refund of accumulated ITC of input services and capital goods arising on account of inverted duty structure:

14. Section 54(3) of the CGST Act provides that refund of any unutilized ITC may be claimed 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). Further, section 2(59) of the CGST Act defines **inputs** as any **goods other than capital goods** used or intended to be used by a supplier in the course or furtherance of business. Thus, inputs do not include services or capital goods. Therefore, clearly, the intent of the law is not to allow refund of tax paid on input services or capital goods as part of refund of unutilized input tax credit. Accordingly, in order to align the CGST Rules with the CGST Act, notification No.

26/2018-Central Tax dated 13.06.2018 was issued wherein it was stated that the term Net ITC, as used in the formula for calculating the maximum refund amount under rule 89(5) of the CGST Rules, shall mean input tax credit availed on **inputs** during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both. In view of the above, it is clarified that both the law and the related rules clearly prevent the refund of tax paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted duty structure.

15. All previous Circulars/Instructions issued on the subject stand modified accordingly. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

16. 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)

Circular No. 80/54 /2018-GST

F. No.354/432/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)
*****

North Block, New Delhi
Dated 31st December, 2018

To,

Principal Chief Commissioners/ Principal Directors General,
Chief Commissioners/ Directors General,
Principal Commissioners/ Commissioners of Central Excise & Central Tax

Madam/ Sir,

Subject: Clarification regarding GST rates & classification (goods)–reg.

Representations have been received seeking clarification in respect of applicable GST rates on the following items:

(i) Chhatua or Sattu
(ii) Fish meal and other raw materials used for making cattle/poultry/aquatic feed
(iii) Animal Feed Supplements/ feed additives from drugs
(iv) Liquefied Petroleum Gas for Domestic Use
(v) Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP
(vi) Wood logs for pulping
(vii) Bagasse based laminated particle board
(viii) Embroidered fabric sold in three pieces cloth for lady suits
(ix) Waste to Energy Plant-scope of entry No. 234 of Schedule I of notification No.1/2017- Central Tax (Rate) dated 28.6.2017
(x) Turbo Charger for railways
(xi) Rigs, tools & Spares moving inter-state for provision of service

2. The matter has been examined. The issue-wise clarifications are discussed below:

3. **Applicability of GST on Chhatua or Sattu:**

3.1 Doubts have been raised regarding applicability of GST on Chhatua (Known as "Sattu" in Hindi Belt).

3.2 Chhatua or Sattu is a mixture of flour of ground pulses and cereals. HSN code 1106 includes the flour, meal and powder made from peas, beans or lentils (dried leguminous vegetables falling under 0713). Such flour improved by the addition of very small amounts of additives continues to be classified under HSN code 1106. If unbranded, it attracts Nil GST (S. No. 78 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017) and if branded and packed it attracts 5% GST (S. No. 59 of schedule I of notification No. 1/2017-Central Taxes (Rate) dated 28.06.2017).

4. **Applicable GST rate on Fish meal and other raw materials used for making cattle/poultry/aquatic feed:**

4.1. Representations have been received seeking clarification regarding GST rate applicable on the other raw materials/inputs used for making cattle/poultry/aquatic feed. The classification dispute here is between the following two entries in the two notifications. The details are as under:

Notification	Tariff Line	Description	Rate
S. No. 102 of notification No. 2/2017- Central Tax (Rate) dated 28.6.2017	**2301**, 2302, 2308, **2309**	**Aquatic feed** including shrimp feed and prawn feed, **poultry feed & cattle feed**, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake	NIL
S. No. 103 of notification No. 1/2017- Central Tax (Rate) dated 28.6.2017	**2301**	Flours, **meals** and pellets, of meat or meat offal, **of fish** or of crustaceans, molluscs or other aquatic invertebrates, **unfit for human consumption**; greaves	5%

4.2 A number of raw materials such as fish meal falling under heading 2301, meat and bone meal also falling under heading 2301, oil cakes of various oil seeds, soya seeds, bran, sharps, residue of starch and all other goods falling under headings 2302, 2303, 2304, etc are used to manufacture/formulation of, aquatic feed, animal feed, cattle feed, poultry feed etc. These raw materials/inputs cannot be directly used for feeding animal and cattle. The Larger Bench of the Hon'ble Supreme Court in the Commissioner of Customs (Import), Mumbai vs. Dilip Kumar [2018 (361) E.L.T 577] has laid down that inputs for animal feed are different from the animal feed. Said S. No. 102 covers the prepared aquatic/ poultry/cattle feed falling under headings 2309 and 2301. This entry does not apply to raw material/inputs like fish meals or meat cum bone meal (MBM) falling under heading 2301.

4.3 It is accordingly clarified that fish meals, meat cum bone meal (MBM) etc., attract 5% GST under S. No. 103 in notification No. 1/2017- Central Tax (Rate) dated 28.6.2017

5. **Applicable GST rate on Animal Feed Supplements/feed additives from drugs:**

5.1. Representations have been received seeking clarification regarding GST rate applicable on Animal Feed Supplements/feed additives from drugs. The dispute is in classification of Animal Feed Supplements/feed additives from drugs between tariff heading 2309 and 2936.

5.2 As per the HSN, 2309 interalia covers reading vitamins and provitamins which improve digestion and, more generally, ensure that the animal makes good use of the feeds and safeguard its health. On the other hand, HS code 2936 coves vitamins and provitamins which are medicinal in nature and have much higher concentration of active substance.

5.4 Thus while deciding the classification of the products claimed to be animal feed supplements, it may be necessary to ensure that the said animal feed supplements are ordinarily or commonly known to the trade as products for a specific use in animal feeding.

5.5 A product deserves classification chapter 29 (equally applicable to heading 2936), if it is an item of general use, e.g., if a product is of specific use, say dietary supplement for human being product particularly suitable for a specific use rather than for general use. Vitamins and provitamins are normally covered under code

heading 2936, but if they're prepared as food supplements in the form of tablets, etc. they would not be classifiable under this heading as the way they are presented, they are suitable for a specific use. Heading 2309 would cover items like feed supplements for animals that contain vitamins and other ingredients - such as cereals and proteins. These are covered in chapter 23 under heading code 2309, or antibiotic preparations used in animal feeding - for example a dried antibiotic mass on a carrier like cereal middling. The antibiotic content in these items is usually between 8% and 16%. Thus, HS code 2309 would cover only such product, which in the form supplied, are capable of specific use as food supplement for animals and not capable of any general use. If the vitamins, provitamins are supplied in a form in which they are capable of general use, i.e. in the form in which it could be used as inputs or raw materials for further processing, instead of being ready to use, then these would be classifiable under heading 2936.

6. Applicability of GST on supply of Liquefied Petroleum Gas for Domestic Use:

6.1 Representations have been received seeking clarification regarding applicability of GST rate at 5% on LPG supplied by refiners/fractionators (like GAIL / ONGC) to Oil Marketing Companies (OMC) for ultimate supply to household domestic consumers in terms of Ministry of Petroleum and Natural Gas (MoPNG) letter No. P 20023/2/2011-PP dated 23.07.2013. The references point to the fact that refiners/ fractionators like GAIL and ONGC are supplying LPG for domestic use to OMCs and this supply is not being treated as a supply for domestic use by field formations.

6.2 The issue seems to have arisen in the context of addition of S. No. 165A to notification No.1/2017-Central Tax (Rate) dated 28.6.2017, vide notification No. 6/2018 dated 25.01.2018. This entry was added on the recommendations of the GST Council in its 25th meeting, extending 5% GST rate for supply of LPG to household domestic consumers.

6.3 It is observed that the LPG stream for domestic LPG is differentially priced and packed differently from commercial LPG. The usage of LPG for domestic supply is known at the time of supply being made by refiner/fractionators to OMCs.

6.4 Therefore, it is being clarified that LPG supplied in bulk, whether by a refiner/fractionator to an OMC or by one OMC to another for bottling and further supply for domestic use will fall under the S. No. 165A of the notification No. 1/2017- Central Tax (Rate) dated 28.06.2017 and shall, accordingly, attract a GST rate of 5%, with effect from 25.1.2018.

7. **Applicability of GST on supply of Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP:**

7.1 Representations have been received seeking the classification and GST rates on Polypropylene Woven and Non-Woven Bags and Polypropylene Woven and Non-Woven Bags laminated with BOPP

7.2 As per the explanatory notes to the HSN to HS code 39.23, the heading covers all articles of plastics commonly used for the packing or conveyance of all kinds of products and includes boxes, crates, cases, sacks and bags.

7.3 Further as per the Chapter note to Chapter 39, the expression "plastics" means those materials of headings 39.01 to 39.14 which are or have been capable, either at the moment of polymerization or at some subsequent stage, of being formed under external influence (usually heat and pressure, if necessary with a solvent or plasticizer) by moulding, casting, extruding, rolling or other process into shapes which are retained on the removal of the external influence.

7.4 Thus it is clarified that Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP would be classified as plastic bags under HS code 3923 and would attract 18% GST.

7.5 Non-laminated woven bags would be classified as per their constituting materials.

8. **Applicability of GST on supply of wood logs for pulping:**

8.1. Representation has been received seeking clarification on applicability of GST rate on wood log for pulping. Wood in the rough (whether or not stripped of bark or sapwood, or roughly squared) is classified under heading 4403 and attracts 18% GST.

8.2 As per HSN, heading 4403 also covers.

"timber for sawing; poles for telephone, telegraph or electrical power transmission lines; unpointed and unsplit piles, pickets, stakes, poles and props; round pit-props;

logs, whether or not quarter-split, for pulping*; round logs for the manufacture of veneer sheets, etc.; logs for the manufacture of match sticks, wood ware, etc.".*

8.3 Thus, it is clarified that wood logs or any kind of wood in the rough/timber, including the wood in rough/log/timber used for pulping falls under heading 4403 and attract GST at the rate of 18%.

9. **Applicability of GST on supply of Bagasse based laminated particle board*:***

9.1 Representation has been received seeking clarification on applicability of GST rate on Bagasse based laminated particle board. In this context, it is sated that the Bagasse Board has specific entry at S. No. 92 in Schedule II to the Notification 1/2017-Central Tax (Rate). Accordingly, the said entry covers Bagasse boards falling under 44 or any other chapter and 12% GST. Further, it is also stated the description "Bagasse board" in the said entry also covers Bagasse board [whether plain or laminated].

9.2 Thus, it is clarified Bagasse board [whether plain or laminated] falling under chapter 44 will attract concessional GST rate of 12%.

10. **Applicability of GST on supply of embroidered fabric sold in three piece for lady suits:**

10.1. Representations have been received seeking clarification regarding GST rate applicable on supply of embroidered fabric sold in three pieces fabric pack/set for lady suits (fabric for suit, salwar and dupatta)**.** It has been informed that before

becoming readymade articles or an apparel, the fabric is cut from bundles or *thans* and sold in that unstitched state with certain embellishment like gota etc. The consumers buy these sets or pieces and get it tailored which entails cutting of fabric in shape and stitching thereof. Doubts have arisen as regards applicable rates on such three fabric pieces in sets/packs.

10.2 Fabrics are classifiable under chapters 50 to 55 and 60 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%. Garments and made up articles of textiles under chapters 61, 62 and 63 attract GST at the rate of 5% when value is upto Rs 1000 per piece and 12% when the value exceeds Rs. 1000 per piece.

10.3 Earlier, vide Circular no. 13/13/2017-CGST dated 27th October 2017, it has been clarified that mere packing of fabrics into pieces of different lengths 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. This clarification would equally apply to three pieces of fabrics sold in a pack as ladies salwar suit. Any embroidery on a fabric piece or certain embellishment thereon does not change the basic nature of their being a fabric. The chapter 63 covers garment, including the unstitched garments which may or may not be sufficiently completed to be identifiable as garments or parts of garments. However, heading 6307 would not cover a fabric pieces or a set of pre-packed fabric pieces, even if embroidered or embellished. Such set of fabric pieces would attract GST at the rate of 5%.

11. **Applicability of GST on supply of Waste to Energy Plant:**

11.1. Representations have been received regarding applicable GST rate on the goods used in the setting up of Waste to Energy plants (WTEP) in term of Sr. No. 234 of Schedule I of Notification No 1/2017-Central Tax (Rates) dated 28th June, 2018. The said entry 234 prescribes 5% rate on the following renewable energy devices & parts for their manufacture:

(a) Bio-gas plant

(b) Solar power based devices

(c) Solar power generating system

(d) Wind mills, Wind Operated Electricity Generator (WOEG)

(e) Waste to energy plants / devices

(f) Solar lantern / solar lamp

(g) Ocean waves/tidal waves energy devices/plant

(h) Photo voltaic cells, whether or not assembled in modules or made up into panels

11.2 The notification specifically applies only the goods falling under chapters 84, 85 and 94 of the Tariff. Therefore, this concession would be available only to such machinery, equipment etc., which fall under Chapter 84, 85 and 94 and used in the initial setting up of renewable energy plants and devices including WTEP. This entry does not cover goods falling under other chapters, say a transport vehicle falling under Chapter 87 that may be used for movement of waste to WTEP.

11.3 Another related doubt raised is as to how would a supplier satisfy himself that goods falling under Chapter 84, 85 and 94, say a turbine or a boiler, required in a WTEP, would be used in the WTEP. In this context it is clarified that GST is to be self-assessed by a taxpayer. Therefore, he needs to satisfy himself with the requisite document from a buyer such as supply contracts/order for WTEP from the concerned authorities before supplying goods claiming concession under said entry 234.

12. **Applicability of GST on supply of Turbo Charger for railways:**

12.1. Representations have been received seeking clarification regarding classification and applicable GST rate on Turbo Chargers supplied to railways. It is stated that some of the supplier are classifying turbo charges supplied to Railways under Chapter 86 and paying GST at the rate of 5%

12.2 The turbocharger is a turbine-driven forced induction device that increases an internal combustion engine's efficiency and power output by forcing extra compressed air into the combustion chamber. It has the compressor powered by a turbine. The turbine is driven by the exhaust gas from the engine.

12.3 Turbo charger is specifically classified under chapter HS code 8414 80 30. It continues to remain classified under this code irrespective of its use by Railways. Therefore, it is clarified that the turbo charger is classified under heading 8414 and attracts 18% GST.

13. **Applicability of GST on supply of cranes, rigs, tools & Spares and other machinery when moved from one state to another by a person on his account for there use for supply of service**

13.1 As per Circular No. 21/21/2017-GST dated 22.11.2017, it was clarified that no IGST would be applicable on such interstate movements of rigs, tools & spares and all goods on wheels. Doubts have been raised regarding applicability of GST on inter-state movement of machinery like tower cranes, rigs, batching plants, concrete pumps and mixers which are not mounted on wheels, but require regular means of conveyance (used by companies in Infrastructure business).

13.2 Any inter-state movement of goods for provision of service on own account by a service provider, where no transfer of title in such goods or transfer of goods to the distinct person by way of stock transfer is not involved, does not constitute a supply of such goods. Hence, it is clarified that any such movement on own account (not involving distinct person in terms of section 25), where such movement is not intended for further supply of such goods does not constitute a supply and would not be liable to GST.

14. Difficulty, if any, may be brought to the notice of the Board immediately. Hindi version shall follow.

Yours faithfully,

(Mahipal Singh)
Technical Officer (TRU-1)
mahipal.singh1980@gov.in

Circular No. 81/55/2018-GST

F.No.354/408/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)
*****

North Block, New Delhi
Dated, 31st December, 2018

To,

Principal Chief Commissioners/ Principal Directors General,
Chief Commissioners/ Directors General,
Principal Commissioners/ Commissioners of GST and Central Tax (All),

Madam/ Sir,

Subject: Clarification regarding GST tax rate for Sprinkler and Drip Irrigation System including laterals–reg.

Representations have been received seeking clarification as regards the scope and coverage of entry No. 195B of the Schedule II to notification No. 1/2017- Central Tax (Rate), dated 28.06.207. The entry No. 195B was inserted vide notification No. 6/2018- Central Tax (Rate), dated 25th January, 2018 and reads as below:

S. No	Chapter Heading/ Sub-heading/Tariff Item	Description of Goods	CGST rate
195B	8424	Sprinklers; drip irrigation system including laterals;	6%

2. Doubts have arisen as in certain cases a view has been taken in the field that this entry would not cover "laterals of sprinklers" and "sprinklers irrigation system", while laterals of drip irrigations are covered by this entry.

3. The matter has been examined. Initially, with effect from 1.7.2017, all goods falling under HS 8424, namely, Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines (other than fire extinguishers, whether or not charged), were placed under 18% slab. Subsequently, on the recommendation of the GST Council, the item namely, 'Nozzles for drip irrigation equipment or nozzles for sprinkler was placed under 12% GST slab (Entry No. '195A' with effect from 22.09.2017). Upon revisiting the issue of GST rate on micro irrigation including drip irrigation system, including laterals the GST Council recommended 12% GST rate on micro

irrigation system, namely, sprinklers, drip irrigation system, including laterals. Accordingly, the said entry 195B was inserted in the notification No. 1/2017- Central Tax (Rate).

3.1 The micro irrigation, sometimes called „localised irrigation", „low volume irrigation", or „trickle irrigation" is a system where water is distributed under low pressure through piped network, in a pre-determined pattern, and applied as a small discharge to each plant or adjacent to it. The traditional drip irrigation using individual emmitters, subsurfaces drip irrigations (SDI), micro-spray or micro-sprinkler irrigation, and mini bubbler irrigation all belong to the catgeory of micro irrigation method.

4. Therefore, the term "sprinklers", in the said entry 195B, covers sprinkler irrigation system. Accordingly, sprinkler system consisting of nozzles, lateral and other components would attract 12% GST rate.

5. Difficulty, if any, may be brought to the notice of the Board immediately. Hindi version shall follow.

Yours faithfully

Gunjan Kumar Verma
Under Secretary (TRU-I)