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In brief

- CGST Rules amended to align with amendments in CGST Act, 2017

CGST Notifications

- **Notification No. 03/2019-Central Tax, Dated: 29-01-2019**  
 This notification seeks to amend the CGST Rules, 2017

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|--|
| <p>A unit in SEZ or being a Special Economic Zone developer is no more required to take separate registration as a business vertical distinct from his other units located outside the Special Economic Zone. It is to be noted that while SEZ whose supplies may be included in the returns along with non-SEZ supplies, all supplies 'to or by' SEZ continue to be inter-State supplies.</p>   |
| <p>Where a registered person has applied for cancellation of registration under Rule 20 or where a notice for cancellation of registration has been issued under section 29 or under rule 21 by proper officer, the registration shall be deemed to be suspended pending the completion of proceedings for cancellation of registration under rule 22.</p>   |
| <p>A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 shall be allowed to transfer the unutilized ITC lying in his electronic credit ledger to any or all of the newly registered place of business in the ratio of the value of assets (value of the entire assets of the business whether or not input tax credit has been availed thereon.) by furnishing FORM GST ITC-02A electronically within 30 days from obtaining such separate registrations.</p> |
| <p>This amendment enables issuance of consolidated Credit/debit note for multiple invoices.</p>  |
| <p>Rule 80 has been amended as a consequence of insertion of a proviso to sub section 5 of section 35 of CGST Act which provides that audit provisions shall not apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor- General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.</p>  |
| <p>This amendment allows Goods and Services Tax Practitioners to perform certain additional functions such as filing the refund claim, filing the application for cancellation of registration, etc. on fulfilment of prescribed conditions.</p>   |
| <p>It is provided that the order sanctioning the provisional refund issued in FORM GST RFD-04 shall not be required to be revalidated by the proper officer.<br/>                 Provided that the payment advice for disbursement of provisional Refund in FORM GST RFD-05 shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.</p>   |

## In brief

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| This Amendment is consequent to amendment of definition of 'export of Services' in IGST Act and permits receipt of payment by the exporter, within prescribed time limit, in Indian Rupees, wherever permitted by the Reserve Bank of India.   |
| Form for declaration of ITC pursuant to registration under sub-section (2) of section 25 which provides for grant of separate registration for multiple places of business in a State or Union territory subject to such conditions as may be prescribed.  |
| Rate of tax for tax payers eligible for of composition levy (other than manufacturers and Restaurant service providers) is to be 1% (CGST + SGST) of the turnover of taxable supplies of goods and services (i.e. entire 'taxable turnover') in the State or Union territory. Earlier only the supply of taxable goods was considered for calculating the tax.   |
| A person enrolled as a GST Practitioner is allowed thirty months (as against eighteen months earlier), after the date of enrolment, to pass the exam.  |
| Where the refund is on account of supply of goods or services made to a Special Economic Zone unit or a Special Economic Zone developer, a declaration to the effect that tax has not been collected from the Special Economic Zone unit or the Special Economic Zone Developer has to be submitted. Now the determination of whether tax incidence has been/not been passed flows from the customer's (SEZ Unit) certificate. |

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-03-central-tax-english-2019.pdf>

- **Notification No. 05/2019-Central Tax, Dated: 29-01-2019**

This notification amends the manner of calculation of Taxable supply for Composition Levy. CGST and SGST for suppliers (other than manufacturers and Restaurant service providers) under composition scheme is now to be calculated at the rate of 0.5% each of the turnover of taxable supplies of **goods and services** in the State or Union territory as against 0.5% each of the turnover of taxable supplies of only **goods** earlier.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-05-central-tax-english-2019.pdf;jsessionid=6784B001335077365DEB9B29E38F10EF>

- **Notification No 10/2019-Central tax, Dated: 07-03-2019**

Threshold limit for GST registration (Effective from 01-4-2019) for those engaged in **exclusive supply of goods** has been increased to Rs. 40 Lakhs except in following-

- Persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.
- Persons required to take compulsory registration under section 24
- Suppliers of Ice cream and other edible ice, whether or not containing cocoa; Pan masala; Tobacco and manufactured tobacco substitutes.

The threshold for registration continues to be Rs 20 lakhs for service providers and Rs 10 lakhs in case of Special category States.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-10-central-tax-english-2019.pdf;jsessionid=CA71CFEDF255E4D9517559CD370CBABE>

- Amendment in manner of calculating Taxable supply for Composition Levy

- Threshold limit for GST Registration for supplier of Goods in other than special category states increased to Rs.40 Lakhs

## In brief

- Threshold limit for availing composite scheme has been raised to Rs. 1.5 crores.
- Time limit for filing ITC-04 for July 2017 to March 2019 extended till 30-06-2019
- CGST Act & Rules amended in line with recommendations of GST council Meeting related to Real Estate Sector.

- **Notification No 14/2019-Central tax, Dated: 07-03-2019**

This notification seeks to extend the limit of threshold of aggregate turnover for availing Composition Scheme u/s 10 of the CGST Act, 2017 to Rs. 1.5 crores with effect from 01-04-2019. For special category states the threshold limit for Composition levy continues to be Rs75 Lakhs.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-central-tax-english-2019.pdf;jsessionid=B7E6D657A5DC0B0164147B5567919CED>

- **Notification No 15/2019-Central tax, Dated: 29-03-2019**

This notification extends the time limit for furnishing the declaration in FORM GST ITC-04 of the said rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to March, 2019 till the 30-06-2019.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-central-tax-english-2019.pdf;jsessionid=419E511A13C310AA8BC490414C7207A2>

- **Notification No 16/2019-Central tax, Dated: 29-03-2019**

This notification seeks to make Second Amendment (2019) to CGST Rules. Amendments have been made to following Rules in line with recommendations of 33rd/ 34th GST Council Meetings relating mainly to reduction of GST rates in housing sector. These amendments are applicable w.e.f. 01.04. 2019.

- Rules 41 (Transfer of credit on sale, merger, amalgamation, lease or transfer of a Business),
- Rule 42 (Manner of determination of input tax credit in respect of inputs or input Services and reversal thereof),
- Rule 43 (Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases) ,
- Rule 100 (Assessment in certain cases) and
- Rule 142 (Notice and order for demand of amounts payable under the Act) have been amended.
- Rule 88A prescribing Order of utilization of input tax credit has been inserted. Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order.
- Further, certain Forms under CGST Rules have been amended, viz. DRC-01, DRC-03, DRC-07, DRC-08, ASMT-13, ASMT-15, ASMT-16, etc.,

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-16-central-tax-english-2019.pdf;jsessionid=648C06C0F606F834FCB8A9B098226969>

## Return

## In brief

- Taxability under Reverse Charge Mechanism (RCM) on purchases from unregistered person put on hold.
- Composition scheme with 6% GST is extended to service providers for first supply up to an aggregate of Rs.50 Lakhs made on or after 01-04-2019 subject to prescribed conditions

## Notifications – CGST (Rate)

### • Notification No. 01/2019-Central Tax (Rate), Dated: 29-01-2019

This notification rescinds notification no. 8/2017 Central Tax (Rate). Whereby w.e.f 01-02-2019, Reverse Charge on Unregistered Purchases shall be on hold till the government specifies category of persons u/s 9(4) on whom reverse charge for unregistered purchase shall be applicable.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-1-2019-cgst-rate-english.pdf;jsessionid=9152B843AC9CB332E2F72F62016133FE>

### • Notification No. 02/2019-Central Tax (Rate), Dated: 07-02-2019

This notification extends composition scheme for supplier of services with a tax rate of 6% having annual turnover in preceding year upto Rs 50 lakhs.

**Description of supply:** First supplies of goods or services or both up to an aggregate turnover of Rs. 50 lakhs made on or after the 1st day of April in any financial year, by a registered person.

**Rate (%):** 3% - Subject to following conditions:

- Supplies are made by a registered person, -
  - ♦ Whose aggregate turnover in the preceding financial year was Rs. 50 lakhs or below;
  - ♦ Who is not eligible to pay tax under sub- section (1) of section 10;
  - ♦ Who is not engaged in making any supply which is not leviable to tax;
  - ♦ Who is not engaged in making any inter- State outward supply;
  - ♦ Who is neither a casual taxable person nor a non-resident taxable person;
  - ♦ Who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and
  - ♦ Who is not engaged in making supplies of: (a)Ice cream and other edible ice, whether or not containing cocoa. (b). Pan masala (c). Tobacco and manufactured tobacco substitutes
- Where more than one registered persons are having same PAN, central tax on supplies by all such registered persons is paid at the given rate.
- The registered person shall not collect any tax from the recipient nor shall he be entitled to any credit of input tax.
- The registered person shall issue, instead of tax invoice, a bill of supply.
- The registered person shall mention the following words at the top of the bill of supply, namely:
  - ‘Taxable person paying tax in terms of Notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies’.
- Liability to pay central tax at the rate of 3% on all outward supplies notwithstanding any other notification issued under sec. 9 or sec. 11 of said Act.
- Liability to pay central tax on inward supplies on reverse charge under sec.9(3) or 9(4).

Exemption runs from April 2019 till turnover reaches Rs.50 lacs. This is an optional facility through a rate notification that is ‘notwithstanding’ any other rate notification issued. This facility and composition under section 10 operate as mutually exclusive. Thus, traders and manufacturers of goods and restaurant service providers who are eligible for composition (even if not opted) will not be able to opt for this facility

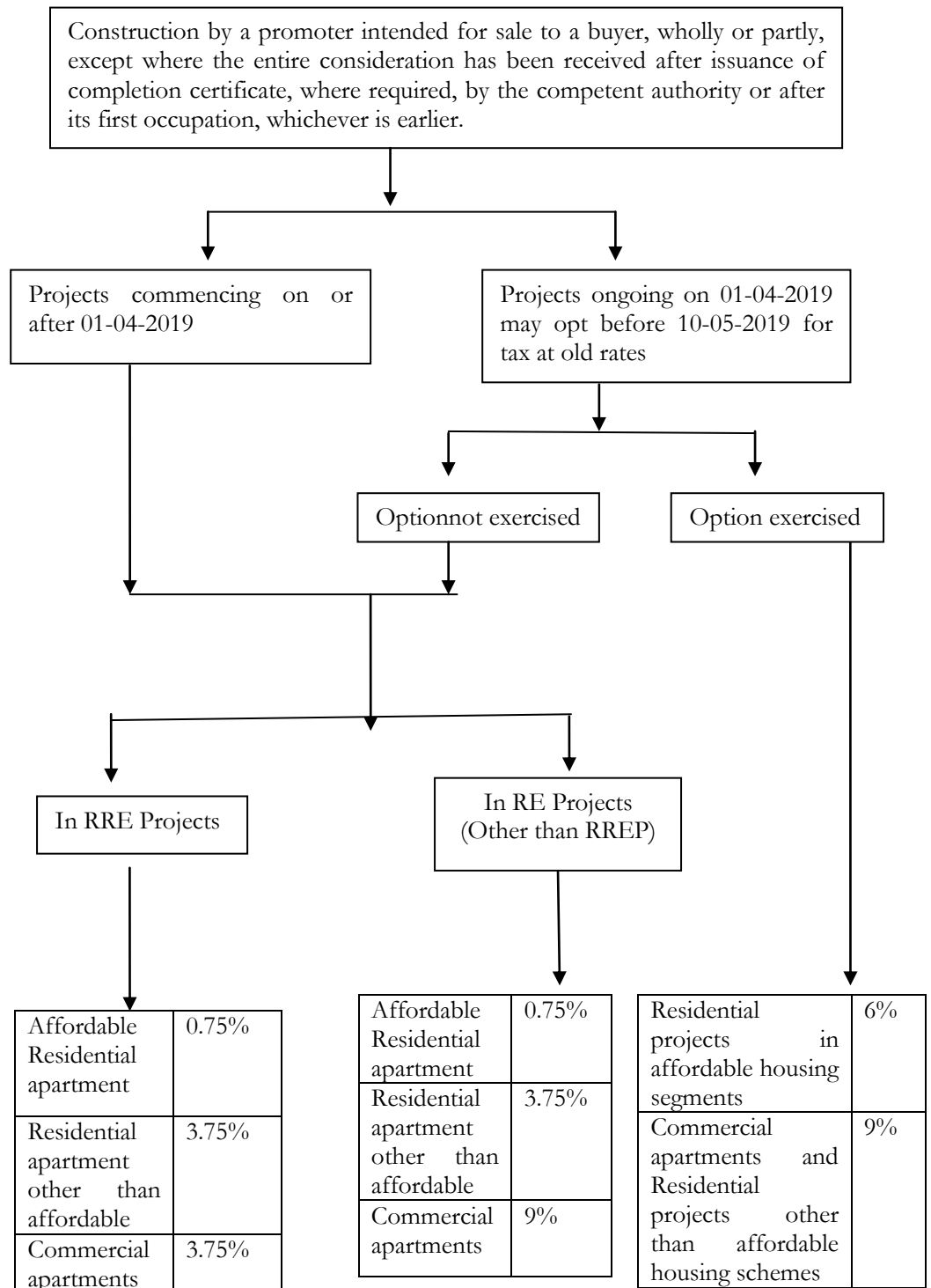
For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-2-2019-cgst-rate-english.pdf;jsessionid=90A56921F6F550A67333AACAA1C4748B2>

## In brief

- Reduced tax rates notified for Real Estate Sector in Residential sector
- Effective GST rate of 1% for affordable housing sector and 5% for other than affordable housing sector with no Input Tax Credit (ITC).

### • Notification No. 03/2019-Central Tax (Rate), Dated: 29-03-2019

This notification notifies CGST rates of various services as recommended by Goods and Services Tax Council for real estate sector.



## In brief

- RCM applicable to supply from unregistered person by promoters in certain cases

- The reduced rate of tax under notification 3/2019 will be applicable subject to following conditions:
  - ♦ Payment of tax by debiting Electronic cash ledger only
  - ♦ ITC has not been taken of input tax paid on goods and services used in supply of the services.
  - ♦ Payment of an amount equivalent to the input tax credit attributable to construction in a project, time of supply of which is on or after 01-04-2019 by debit of cash ledger or electronic credit ledger.
  - ♦ 80% of the input and input services used in supplying the service shall be received from registered supplier only. Any shortfall of the said threshold of 80 per cent., tax shall be paid by the promoter on value of input and input services comprising such shortfall at the rate of eighteen percent on reverse charge basis.
  - ♦ Where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement at the applicable rates on reverse charge basis.

Provided also that where a registered person (landowner- promoter) who transfers development right or FSI (including additional FSI) to a promoter (developer- promoter) against consideration, wholly or partly, in the form of construction of apartments, - the developer- promoter shall pay tax on supply of construction of apartments to the landowner-promoter, and the landowner-promoter can take ITC of such tax paid by him subject to certain conditions.

- The rates for following services also has been prescribed under this notification:
  - ♦ Composite supply of works contract supplied for affordable residential apartments to which new rate is applicable will be liable to GST @ 12%.
  - ♦ Supply of service, other than by way of TDR/FSI or long term lease provided by an unregistered person to a promoter for construction of a project on which tax is payable by the recipient of the service will be liable to GST @ 18%, even though it may be covered by a more specific chapter, section or heading elsewhere in this notification.
- Council has also recommended the definition of “affordable housing” as –  
A residential house/flat:

| Location         | Carpet area up to | Maximum Value (Rs.) |
|------------------|-------------------|---------------------|
| Metro cities     | 60 Sq. m.         | 45 lakhs            |
| Non metro cities | 90 Sq. m.         | 45 lakhs            |

Metropolitan cities - Bengluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad) Hyderabad, Kolkata and Mumbai (whole of MMR).

- Residential Real Estate Project (RREP) shall mean REP in which the carpet area of commercial apartments is not more than 15% of the total carpet area of all apartments in REP.

For details refer:<http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-3-2019-cgst-rate-english.pdf;jsessionid=0BBEA172235A183074D2A5A1E1FC1236>



## In brief

- Exemption of TDR, Transfer of FSI and Long term lease for construction of residential apartments

- In other cases of TDR, Transfer of FSI and Long term lease GST to be paid by promoter under RCM

- **Notification No. 4/2019-central Tax (rate), Dated: 29-03-2019**

Following services have been exempted from payment of tax:

- Service by way of transfer of development rights (**TDR**) or Floor Space Index (FSI) (including additional FSI) on or after 01-04-2019 **for construction of residential apartments.**
- Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more, on or after 01.04.2019, **for construction of residential apartments.**

However It has been provided that tax on proportionate value of TDR or FSI or upfront amount paid for long term lease for construction of residential apartments, **attributable to unsold apartments** on the day of issuance of Completion Certificate or first occupancy shall be paid by the promoter on Reverse charge basis.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-4-2019-cgst-rate-english.pdf;jsessionid=8DCA0C008FA83496A8390F4BA983DB26>

- **Notification No. 5/2019-central Tax (rate), Dated: 29-03-2019**

Promoters have been notified as the persons liable to pay tax on Reverse charge basis for following services received by them:

- Services supplied by any person by way of transfer of TDR or FSI (including additional FSI) for construction of a project by a promoter.
- Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-5-2019-cgst-rate-english.pdf;jsessionid=BCB513A199A46F549F3B1F7A4EFBE7C6>

- **Notification No. 6/2019-central Tax (rate), Dated: 29-03-2019**

The liability to pay tax on consideration paid in any form for transfer of TDR/ FSI for construction of a project or long term lease for construction of residential apartments will be of the promoter who receives such services and **shall arise** on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-6-2019-cgst-rate-english.pdf>

## In brief

- Promoters liable to pay GST @ 18% on any shortfall in requirement of procuring atleast 80% of supply from registered dealer under RCM

- **Notification No. 7/2019-central Tax (rate), Dated: 29-03-2019**

In case of following category of supply of Goods and Services received from an unregistered supplier for projects having concessional tax liability vide Notification No.3/2019, Central Tax (Rate), promoter shall pay tax, on reverse charge basis as recipient:

- On supply of any goods or services or both, to the extent of shortfall in requirement of purchase of at least 80% of inputs and input services from registered persons.
- On supply of cement
- On supply of capital goods.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-7-2019-cgst-rate-english.pdf;jsessionid=002FEDA5A159555B3866F1F00F7E4DF9>

- **Notification 8/2019-central Tax (rate), Dated: 29-03-2019**

Except for cement and Capital goods, 18% tax rate will be applicable on supply of any goods by an unregistered person on which promoter is liable to pay tax under RCM vide Notification No.7/2019 central Tax 2019.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-7-2019-cgst-rate-english.pdf;jsessionid=4A87DFD474AB32F81ED96B4AAC8709D1>

## Return



## In brief

- Supply of food and beverages by Education Institute itself to its staff, students and faculty is exempt from GST

- Certain Circulars issued earlier amended

## CGST Ciruclars

- **Circular No. 85/04/2019, Dated: 01-01-2019**

The circular clarifies that supply of food and beverages by an educational institution to its students, faculty and staff, where such supply is made by the educational institution itself, is exempt. However, such supply of food and beverages by any person other than the educational institutions based on a contractual arrangement with such institution is leviable to GST@ 5%.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-85.pdf;jsessionid=AEE39B82D58C565159B86A3500693C87>

- **Circular No. 87/06/2019, Dated: 02-01-2019**

The CENVAT credit of service tax paid under section 66B of the Finance Act, 1994 was available as transitional credit under section 140(1) of the CGST Act and that legal position has not changed due to amendment of section 140(1).

No transition of credit of cesses, including cess which is collected as additional duty of customs would be allowed in terms of section 28 of CGST Amendment Act, 2018 which shall become effective from the date the same is notified giving it retrospective effect.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-87.pdf;jsessionid=A021F7461BD6ABD839A327E08D40ACB6>

- **Circular No. 88/07/2019, Dated: 01-02-2019**

This circular seeks to amend various circulars issued earlier under the CGST Act, 2017 with effect from 01.02.2019, to the extent detailed in the table below:

| Circular No.                                 | Revisions in Circulars   |
|--|--|
| Circular No. 8/8/2017<br>Dated: 04.10.2017   | It is clarified that the acceptance of LUT for supplies of goods or services to countries outside India or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines.  |
| Circular No. 38/12/2018<br>Dated: 26.03.2018 | <p>a) 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 the time specified under section 143.</p> <p>b) Further, if the time frame specified under section 143 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.</p> <p>c) Now, 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.</p> |

## In brief

| Circular No.                                       | Revisions in Circulars   |
|--|--|
| Circular No.<br>38/12/2018<br>Dated:<br>26.03.2018 | d) 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.<br>e) 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. |
| Circular No.<br>41/15/2018<br>Dated:<br>13.04.2018 | In case the proposed tax and penalty are not paid within 14 days from the date of the issue of the order of detention in FORM GST MOV-06, proposing confiscation of the goods and conveyance and imposition of penalty. Accordingly, Form GST MOV -08 & 09 has been revised.   |
| Circular<br>No.58/32/2018<br>Dated:<br>04.09.2018  | Liabilities related to wrongly availed CENVAT credit under the existing law and inadmissible transitional credit may be discharged by the taxpayers, either voluntarily in FORM GST DRC-03 or may be recovered vide order uploaded in FORM GST DRC-07, and payment against the said order shall be made in FORM GST DRC-03. It is further clarified that the alternative method of reversing the wrongly availed CENVAT credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of FORM GSTR-3B would no longer be available to taxpayers.  |
| Circular No.<br>69/43/2018<br>Dated:<br>26.10.2018 | It is relied to trade that field formations may not 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.   |

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-88.pdf;jsessionid=EFCE3853A1CF20F19BA216643C641560>

- **Circular No. 89/08/2019, Dated: 18-02-2019**

It is instructed that the registered persons making inter-State supplies to unregistered persons shall report the details of such supplies along with the place of supply in Table 3.2 of **FORM GSTR-3B** and Table 7B of **FORM GSTR-1** as mandated by the law. Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of section 125 of the CGST Act.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-89.pdf;jsessionid=9357534CE9BAEE137D4738E449B92464>

- Furnishing details regarding inter-state supply to unregistered person in GSTR 1 and GSTR 3B made mandatory

## In brief

- It is mandatory to mention place of supply in the invoice in case of inter-state supply.

- Circular No. 90/09/2019, Dated: 18-02-2019**

It is instructed that all registered persons making supply of goods or services or both in the course of inter-State trade or commerce shall specify the place of supply along with the name of the State in the tax invoice. The provisions of sections 10 and 12 of the Integrated Goods and Services Tax Act, 2017 may be referred to in order to determine the place of supply in case of supply of goods and services respectively. Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of sections 122 or 125 of the CGST Act.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-90.pdf;jsessionid=C8A1D075A30BF8959EC318590E5BA8AB>

- Circular No. 91/10/2019, Dated: 18-02-2019**

Circular No. 3/1/2018-IGST dated 25.05.2018 stated that from 01-04.2018 the supply of warehoused goods, before their clearance from the warehouse, would not be subject to the levy of integrated tax.

However, before 01-042018, the supply of warehoused goods, before their clearance from the warehouse, attracted IGST. Since the facility to show such supplies as inter- state supply in GSTR 1 was not available on the portal, suppliers have shown the same as inter-state supply and discharged CGST and SGST tax liability on the same.

As a one-time exception, suppliers who have paid central tax and state tax on such supplies, during the period from July 2017 to March 2018, would be deemed to have complied with the provisions of law as far as payment of tax on such supplies is concerned provided the amount of tax paid as central tax and state tax is equal to the due amount of integrated tax on such supplies.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-91.pdf>

- Circular No. 92/11/2019, Dated: 07-03-2019**

This circular seeks to clarify on the aspects of taxability, valuation, availability or otherwise of ITC in the hands of the supplier in relation to promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products. The gist of the circular is summarized in the table below:

**Treatment of various Sales promotion Schemes under GST**

| Nature of Trans action   | Whether constitutes a supply? | Whether GST payable by supplier? | Whether ITC to be reversed by recipient? | Whether supplier eligible for ITC on GST paid on Inward Supplies? |
|--|-------------------------------|----------------------------------|--|---|
| Free samples (Except those activities mentioned in Schedule I to CGST Act) | No<br>(No consideration)      | No<br>(No Supply)                | N.A.                                     | No<br>(Blocked Credit)  |

- Treatment of various Sales promotion Schemes under GST explained

## In brief

| Nature of Transaction   | Whether constitutes a supply?                                    | Whether GST payable by supplier?   | Whether ITC to be reversed by recipient? | Whether supplier eligible for ITC on GST paid on Inward Supplies? |
|---|--|--|--|---|
| Gifts & Compliments Except those activities mentioned in Schedule I to CGST Act)    | No<br>(No consideration)   | No<br>(No Supply)  | N.A.                                     | No<br>(Blocked Credit)  |
| Buy one, get one free offer   | Yes<br>(Mixed/Composite supply)                                  | Yes  | No                                       | Yes   |
| Buy more, save more offer (volume Discount/staggered discount/Post-supply Discount) | Discount amount eligible for deduction from taxable value        | Eligible for refund of output tax (On issue of credit Note by the supplier)                  | Yes                                      | Yes   |
| Secondary Discounts (Rate Difference)   | Rate difference amount eligible for deduction from taxable value | Eligible for refund of output tax (On issue of credit Note by the supplier)                  | Yes                                      | Yes   |
| Secondary Discount (Commercial Discount)  | Discount amount not eligible for deduction from taxable value    | Not Eligible for refund of output tax (irrespective of whether credit Note is issued or not) | No<br>[Section 15(3)(b)(ii)]             | Yes   |

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-92.pdf;jsessionid=0E6BCBEC5DBFC77B38AB260AB0110347>

- Issues related to refund in various cases clarified

### • Circular No. 94/13/2019, Dated: 28-03-2019

Following points related to Refund have been clarified:

- **Refund of accumulated ITC on account of inverted tax structure:** As a one-time measure, refund of accumulated ITC on account of inverted tax structure, for the period(s) in which notification No. 20/2018- Central Tax (Rate) dated 26.07.2018 read with circular No. 56/30/2018-GST dated 24.08.2018), is to be claimed under the category “any other “instead of under the category “refund of unutilized ITC on account of accumulation due to inverted tax structure “in FORM GST RFD01A

## In brief

- Procedure related to cancellation of Certificate due to death of sole proprietor explained

- **Reversing of amount of credit to be lapsed, through the return in FORM GSTR-3B for any month subsequent to August, 2018 or through FORM GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018:** The taxpayer shall be liable to pay interest under of section 50(1) of the CGST Act on the amount which has been reversed belatedly. Such interest shall be calculated starting from the due date of filing of return in FORM GSTR3B till the date of reversal of said amount.
- **Claim of Refund by Merchant Exporter of input tax credit availed on supplies received on which the supplier has availed the benefit of 0.1% scheme:** This refund of accumulated ITC under rule 89(4B) of the CGST Rules shall be applied under the category “any other” instead of under the category “refund of unutilized ITC on account of exports without payment of tax” in FORM GST RFD-01A.
- **Cases of refund in which re-credit of refund of unutilised ITC claimed has already been carried out while issuing deficiency memo:** In such cases, the claimant may resubmit the refund application manually in FORM GST RFD-01A after correction of deficiencies pointed out in the deficiency memo, using the same ARN.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-94.pdf;jsessionid=4699F6D3FC55662363D708C07499C24B>

- **Circular No. 95/14/2019, Dated: 28-03-2019**

It is clarified that if registrations has been cancelled by the proper officer under the provisions of section 29(2) of the CGST Act, 2017 on account of non-compliance of the statutory provisions, then those who require GST registration to carry on business need to apply for revocation of cancellation of registration rather than applying for fresh registration.

It is possible that while applying for new registration, the applicant:

- may not have furnished requisite returns and not paid tax for the tax periods covered under the old/cancelled registration.
- may suppress some material information in relation to earlier registration. Some of the information that may be concealed in the application for registration in FORM GST REG -01 are Sr. No. 7 “Date of Commencement of Business”, Sr. No. 8 “Date on which liability to register arises”, Sr. No. 14 “Reason to obtain registration”
- may also not furnish the details of earlier registrations, if any, obtained under GST on the same PAN.

Not applying for revocation of cancellation of registration along with the continuance of the conditions specified in clauses (b) and (c) of Section 29(2) of the CGST Act shall be deemed to be a “deficiency” within the meaning of rule 9(2) of the CGST Rules and will be ground for rejection of new application for registration under Section 25(10) of CGST Act, 2017.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-95.pdf;jsessionid=F8A36D6A9A9362E66CC54B05704C6BF3>

## In brief

- Registered person whose registration was cancelled due to non-compliance of GST provisions shall apply for its revocation rather than new registration to continue the business

- Composition Dealer may now supply services within prescribed limits

- **Circular No. 96/2019, dated: 28-03-2019**

Section 29(1)(a) of the CGST Act, 2019- deals with Cancellation of registration on account of transfer of business for any reason including death of the proprietor.

For the purpose of sections 18(3), 22(3) and 85(1) of CGST Act and rule 43(1) of CGST Rules, Transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor.

**Registration liability of the transferee / successor:** As per section 22(3) of the CGST Act, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession, where a business is transferred to another person for any reasons including death of the proprietor. And while filing application in FORM GST REG-01 applicant is required to mention the reason to obtain registration as death of the proprietor”.

**Cancellation of registration on account of death of the proprietor:** Section 29(1)(a) of the CGST Act, allows the legal heirs in case of death of sole proprietor of a business, to file application for cancellation of registration in FORM GST REG-16 electronically on common portal. In FORM GST REG-16, reason for cancellation is required to be mentioned as “death of sole proprietor”.

For details refer: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-96.pdf;jsessionid=20809432F846632A3B96A43FC98B9D42>

## Return

## CGST Orders

- **Removal of Difficulties order No. 01/2019-Central Tax, Dated: 01-02-2019**

Earlier Composition Levy was available only for suppliers of Goods. After issuance of this order, composition dealers may supply services also within the prescribed limits. A person who opts for the Composition scheme may supply services, of value not exceeding ten per cent of turnover in a State or Union territory in the preceding financial year or Rs. 5 lakhs rupees, whichever is higher.

For details refer: [http://www.cbic.gov.in/resources//htdocs-cbec/gst/ROD1\\_2019\\_CT.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/ROD1_2019_CT.pdf)

## Return





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## Key Take Away

- **CGST (Amendments) Act, 2018 made applicable from 1<sup>st</sup> February 2019**
- **Major amendments in CGST Rules in line with CGST Amendment Act as well as GST Council recommendations related mainly to Real Estate Sector.**
- **Threshold limit for GST registration for supplier of Goods raised to Rs. 40 Lakhs and for opting for Composition to Rs. 1.5 Crores.**
- **Reporting of the details of inter-state supplies to unregistered persons with the place of supply in Table 3.2 of FORM GSTR-3B and Table 7B of FORM GSTR-1 is mandatory.**
- **New tax structure for residential schemes in real estate sector notified.**

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