
KEY UPDATES

APRIL, 2019



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SIGNIFICANT NOTIFICATIONS

| Sr. No | Notification No. | Key Update |
|--------|---|---|
| 1. | 17/2019 - Central Tax, Dt:10-04-2019 | <p>➤ <u>Extension of time limit for furnishing GSTR1 for the month of March, 2019</u></p> <p>The details of outward supply of goods or services or both in FORM GSTR-1 of the CGST Rules, 2017 for the month of March, 2019 shall be furnished electronically through the common portal, on or before the 13th April, 2019.</p> |
| 2. | 18/2019 - Central Tax, Dt:10-04-2019 | <p>➤ <u>Extension of time limit for furnishing GSTR 7 for the month of March, 2019</u></p> <p>The time limit for furnishing the return by a registered person required to deduct tax at source under the provisions of section 51 of the GST Act in FORM GSTR-7 of the CGST Rules, 2017; for the month of March, 2019 has been extended till 12th April, 2019.</p> |
| 3. | 19/2019 - Central Tax, Dt-22.04.2019 | <p>➤ <u>Extension of time limit for furnishing GSTR3B for the month of March, 2019</u></p> <p>The time limit for furnishing FORM GSTR 3B for the month of March, 2019 has been extended till 23rd April, 2019.</p> |
| 4. | 21 /2019 - Central Tax, Dt-23.04.2019 and 21/2019-MGST, Dt. 23-04-2019 | <p>➤ Registered persons paying tax under the provisions of section 10 (i.e. Composition Levy) of the GST Act</p> <p style="text-align: center;">OR</p> <p>➤ Availing the benefit of notification 02/2019 – Central Tax (rate) dated, 7th march, 2019 (i.e. The first intra-State supply of goods or services or both upto an aggregate turnover of fifty lakh rupees made on or after the 1st day of April in any financial year, by a registered person shall be taxed at the rate of 6%) shall follow the special procedure as mentioned below for furnishing of return and payment of tax which is as follows-</p> <ul style="list-style-type: none"> • Shall furnish quarterly return along with payment of GST in FORM GST CMP-08 of the CGST Rules, 2017, till the 18th day of the month succeeding such quarter. • Shall furnish a return for every financial year in form GSTR-4 of the CGST Rules, 2017, on or before the 30th day of April following the end of such financial year. |

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| | | <ul style="list-style-type: none"> The registered persons paying tax by availing the benefit of the said notification, in respect of the period for which he has availed the said benefit, shall be deemed to have complied with the provisions of section 37 (i.e. Furnishing details of outward supplies) and section 39 (i.e. Furnishing of returns) of the said Act if they have furnished FORM GST CMP-08 and FORM GSTR-4 as provided in para 2 and para 3 above. |
| 5. | <p>22/2019 - Central Tax, Dt-23.04.2019</p> <p>and</p> <p>22/2019-MGST, Dt. 25-04-2019</p> | <ul style="list-style-type: none"> ➤ As per Notification no. 74/2018 dated 31st December, 2018 (read with Notification No. 22/2019 dated 23.04.2019), e-way bill generation will be barred if the supplier or the recipient of the consignment has not furnished GSTR-3B or GSTR 1 - For Composition Taxpayers - two consecutive tax periods For Normal Taxpayers - two consecutive months ➤ This provision shall come into force from 21st June, 2019. |
| <p>For detailed Notifications kindly follow below link- http://www.cbic.gov.in/htdocs-cbec/gst/central-tax-notfns-2017</p> | | |

SUMMARY OF CGST (AMENDMENT) RULES, 2019

As per Notification No. 20/2019 – Central Tax dt. 23rd April, 2019 and Notification No. 20/2019 – State Tax dt. 25th April, 2019, the CGST (Amendments) Rules, 2019 shall come into force on the date of their publication in the Official Gazette

| Rule No. | Description | CGST Rules, 2017 | CGST (Amendment) Rules, 2019 |
|--------------|--|--|--|
| 23(1) | Revocation of cancellation of registration | A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in FORM GST REG-21 , to such proper officer, within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner | Additional proviso has been added, which is as follows- “Provided further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration. Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration.” |
| 62 | Form and manner of submission of quarterly return by the composition supplier | Form and manner of submission of quarterly return by the composition supplier | The heading of the rule has been changed to, “Form and manner of submission of statement and return” |

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| <p>62(1)</p> | <p>Form and manner of submission of statement and return</p> | <p>3rd Proviso is as follows-</p> <p>Provided that the registered person who opts to pay tax under Section 10 with effect from the first day of a month which is not the first month of a quarter shall furnish the return in form GSTR-4 for that period of the quarter for which he has paid tax under section 10 and shall furnish the returns as applicable to him for the period of the Quarter prior to opting to pay tax under section 10.</p> | <p>In the said sub-rule the words the following words are substituted-</p> <p>The registered person who opts to pay tax under section 10 or paying tax by availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019- Central Tax (Rate), dated the 7th March, 2019 shall-</p> <p>(i) Furnish a statement, every quarter or, as the case may be, part thereof, containing the details of payment of self-assessed tax in form GST CMP08, till the 18th day of the month succeeding such quarter; and</p> <p>(ii) Furnish a return for every financial year or, as the case may be, part thereof in form GSTR-4, till the thirtieth day of April following the end of such financial year.</p> <p>(iii) 3rd proviso shall be omitted.</p> |
| <p>62(2)</p> | <p>Form and manner of submission of statement and return</p> | <p>Every registered person furnishing the return under sub-rule (1) shall discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger</p> | <p>In the said sub-rule the words are substituted as follows:</p> <p>Every registered person furnishing the statement under sub-rule (1) shall discharge his liability towards tax or interest payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger.</p> |

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| <p>62(4)</p> | <p>Form and manner of submission of statement and return</p> | <p>A registered person who has opted to pay tax under section 10 from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rules 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.</p> | <p>In the said sub-rule the words are substituted as follows:</p> <p>A registered person who has opted to pay tax under section 10 or by availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019- Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.189 (E), dated the 7th March, 2019 from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rules 59 (GSTR 1), 60 (GSTR 2/2A) and 61 (GSTR 3/3B) relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.</p> |
| <p>62(6)</p> | <p>Form and manner of submission of statement and return</p> | <p>-</p> | <p>The new sub rule has been inserted which is as follows-</p> <p>A registered person who ceases to avail the benefit of notification of the Government of India, No. 02/2019- Central Tax (Rate), dated the 7th March, 2019, shall, where required, furnish a statement in FORM GST CMP-08 for the period for which he has paid tax by availing the benefit under the said notification till the 18th day of the month</p> |

| | | | |
|----------------|---|--|--|
| | | | <p>succeeding the quarter in which the date of cessation takes place and furnish a return in FORM GSTR - 4 for the said period till the 30th day of April following the end of the financial year during which such cessation happens.</p> |
| Rule 62 | <p>Form GST CMP – 08- New Form has been inserted for “Statement for payment of self- assessed tax”</p> | | |

CLARIFICATION IN RESPECT OF UTILIZATION OF INPUT TAX CREDIT

Rule 88A of CGST Rules, 2017 Order of utilization of Input Tax Credit

| Input tax Credit on account of | Output liability on account of Integrated tax | Output liability on account of Central tax | Output liability on account of State tax / Union Territory tax |
|---|---|--|--|
| Integrated tax | (I) | (II) – In any order and in any proportion | |
| <i>(III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily</i> | | | |
| Central tax | (V) | (IV) | Not permitted |
| State tax / Union Territory tax | (VII) | Not permitted | (VI) |

Illustrations provided in circular for ease of understanding:

Amount of Input tax Credit available and output liability under different tax heads

| Head | Output Liability | Input tax Credit |
|---------------------------------|------------------|------------------|
| Integrated tax | 1000 | 1300 |
| Central tax | 300 | 200 |
| State tax / Union Territory tax | 300 | 200 |
| Total | 1600 | 1700 |

Option 1:

| Input tax Credit on account of | Discharge of output liability on account of Integrated tax | Discharge of output liability on account of Central tax | Discharge of output liability on account of State tax / Union Territory tax | Balance of Input Tax Credit |
|--|--|---|---|-----------------------------|
| Integrated tax | 1000 | 200 | 100 | 0 |
| <i>Input tax Credit on account of Integrated tax has been completely exhausted</i> | | | | |
| Central tax | 0 | 100 | - | 100 |
| State tax / Union territory tax | 0 | - | 200 | 0 |
| Total | 1000 | 300 | 300 | 100 |

Option 2:

| Input tax Credit on account of | Discharge of output liability on account of Integrated tax | Discharge of output liability on account of Central tax | Discharge of output liability on account of State tax / Union Territory tax | Balance of Input Tax Credit |
|--|--|---|---|-----------------------------|
| Integrated tax | 1000 | 100 | 200 | 0 |
| <i>Input tax Credit on account of Integrated tax has been completely exhausted</i> | | | | |
| Central tax | 0 | 200 | - | 0 |
| State tax / Union territory tax | 0 | - | 100 | 100 |
| Total | 1000 | 300 | 300 | 100 |

Note: Presently, the common portal supports the order of utilization of input tax credit in accordance with the provisions before implementation of the provisions of the CGST (Amendment) Act i.e. pre-insertion of Section 49A and Section 49B of the CGST Act. Therefore, till the new order of utilization as per newly inserted Rule 88A of the CGST Rules is implemented on the common portal, taxpayers may continue to utilize their input tax credit as per the functionality available on the common portal.

SIGNIFICANT CIRCULARS AND ORDERS

| Sr. No. | Circular/ Order No. | Key Update |
|---------|---|---|
| 1. | 97/16/2019- Central Tax, Dt- 5-04-2019 | <p><u>Clarification regarding exercise of option to pay tax @ of 6% for the tax payers suppling intra-state supply of goods or services upto an aggregate turnover of Rs. 50lakhs made on or after 1st day of April in any Financial Year.</u></p> <ul style="list-style-type: none"> ➤ A registered person who wants to opt for payment of CGST & SGST @ 3% each by availing the benefit, by filing intimation in the manner specified in Rule 3(3) (i.e. Composition Levy) of the CGST Rules in FORM GST CMP-02 by selecting the category of registered person as “Any other supplier eligible for composition levy” as listed at Sl. No. 5(iii) of the said form, latest by 30th April, 2019. Such person shall also furnish a statement in FORM GST ITC 03 in accordance with the provisions Rule 3(3) of the CGST rules. ➤ Any person who applies for registration and who wants to opt for payment of CGST & SGST @ 3% each by availing the benefit, if eligible, of Form GST REG-01 at the time of filing of application for registration. ➤ The option of payment of tax by availing the benefit in respect of any place of business in any State or Union territory shall be deemed to be applicable in respect of all other places of business registered on the same PAN. ➤ The option to pay tax by availing the benefit would be effective from the beginning of the financial year or from the date of registration in cases where new registration has been obtained during the financial year. |
| 2. | 98/17/2019- Central Tax, Dt- 23-04-2019 | <p><u>Clarification in respect of utilization of ITC under GST</u></p> <ul style="list-style-type: none"> ➤ Section 49A of the CGST Act provides that the ITC of IGST has to be utilized completely before ITC of CGST/SGST can be utilized for discharge of any tax liability. |

| | | <ul style="list-style-type: none"> ➤ Further, as per the provisions of section 49 of the CGST Act, credit of IGST has to be utilized 1st for payment of IGST then CGST and then SGST in that order mandatorily. ➤ Rule 88A in the CGST Rules allows utilization of ITC of IGST towards the payment of CGST and SGST or as the case may be, UTGST, in any order subject to the condition that the <u>entire ITC on account of IGST is completely exhausted first before the ITC on account of CGST or SGST / UTGST can be utilized.</u> ➤ It is clarified that after the insertion of the CGST Rule, the order of utilization of input tax credit will be as per the order given below: <table border="1" data-bbox="544 619 1515 1165" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 25%;">Input tax credit on account of</th> <th style="width: 25%;">Output liability on account of Integrated tax</th> <th style="width: 25%;">Output liability on account of Central tax</th> <th style="width: 25%;">Output liability on account of State tax / Union Territory tax</th> </tr> </thead> <tbody> <tr> <td>Integrated tax</td> <td>(I)</td> <td colspan="2">(II) – In any order and in any proportion</td> </tr> <tr> <td colspan="4">(III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily</td> </tr> <tr> <td>Central tax</td> <td>(V)</td> <td>(IV)</td> <td>Not permitted</td> </tr> <tr> <td>State tax / Union Territory tax</td> <td>(VII)</td> <td>Not permitted</td> <td>(VI)</td> </tr> </tbody> </table> ➤ The common portal supports the order of utilization of ITC in accordance with the provisions before implementation of the provisions of the CGST (Amendment) Act i.e. pre-insertion of Section 49A and Section 49B of the CGST Act. Therefore, till the new order of utilization as per newly inserted Rule 88A of the CGST Rules is implemented on the common portal, taxpayers may continue to utilize their input tax credit as per the functionality available on the common portal. | Input tax credit on account of | Output liability on account of Integrated tax | Output liability on account of Central tax | Output liability on account of State tax / Union Territory tax | Integrated tax | (I) | (II) – In any order and in any proportion | | (III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily | | | | Central tax | (V) | (IV) | Not permitted | State tax / Union Territory tax | (VII) | Not permitted | (VI) |
|--|---|---|--|---|--|--|----------------|-----|---|--|--|--|--|--|-------------|-----|------|---------------|---------------------------------|-------|---------------|------|
| Input tax credit on account of | Output liability on account of Integrated tax | Output liability on account of Central tax | Output liability on account of State tax / Union Territory tax | | | | | | | | | | | | | | | | | | | |
| Integrated tax | (I) | (II) – In any order and in any proportion | | | | | | | | | | | | | | | | | | | | |
| (III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily | | | | | | | | | | | | | | | | | | | | | | |
| Central tax | (V) | (IV) | Not permitted | | | | | | | | | | | | | | | | | | | |
| State tax / Union Territory tax | (VII) | Not permitted | (VI) | | | | | | | | | | | | | | | | | | | |
| 3. | 99/18/2019-Central Tax, Dt-23.04.2019 | <p><u>Clarification regarding filing of application for revocation of cancellation of registration</u></p> <ul style="list-style-type: none"> ➤ Registration of several persons was cancelled under section 29(2) of the CGST Act, 2017 due to non-furnishing of returns in FORM GSTR-3B or FORM GSTR-4. The said Act empowers the proper officer to cancel the registration, including from a retrospective date. Thus registration have been cancelled either from the date of order of cancellation of registration or from a retrospective date. | | | | | | | | | | | | | | | | | | | | |

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| | | <ul style="list-style-type: none"> ➤ Representations have been received that large number of persons whose registration were cancelled could not apply for revocation of the said cancellation of registration within the period of 30 days as provided in section 30(1) of the said Act. ➤ In the light of these changes and in order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the said Act, hereby clarifies the issues relating to the procedure for filing of application for revocation of cancellation of registration. • The 1st proviso of rule 23(1) of the CGST Rules provides that if the registration has been cancelled on account of failure of the registered person to furnish returns, no application for revocation of cancellation of registration shall be filed, unless such returns are furnished and any amount in terms of such returns is paid. Thus, where the registration has been cancelled with effect from the date of order of cancellation of registration, all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed. • The second proviso of rule 23(1) of the CGST Rules, all returns required to be furnished in respect of the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of thirty days from the date of the order of revocation. • The registration has been cancelled with retrospective effect. The common portal does not allow furnishing of returns after the effective date of cancellation. In such cases it was not possible to file the application for revocation of cancellation of registration. • Where the registration has been cancelled with retrospective effect, the common portal does not allow furnishing of returns after the effective date of cancellation. In such cases it was not possible to file the application for revocation of cancellation of registration. • Therefore, a third proviso was added to sub-rule (1) of rule 23 of the said Rules enabling filing of application for revocation of cancellation of registration, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of thirty days from the date of order of such revocation of cancellation of registration. |
|--|--|---|

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| 4. | 100/19/2019-Central Tax, Dt-30.04.2019 | <p><u>GST applicability on Seed Certification:</u></p> <p>The process of seed testing and certification followed in the state of Tamil Nadu, as prescribed in the Seeds Act, 1966 and elaborated in the Manual on Seed Production and Certification, published by Centre for Indian Knowledge Systems, Chennai, involves the following steps:</p> <p>a) Application for seed production-</p> <p>Any person who wants to take up certified seed production should submit a sowing report in triplicate to the Assistant Director of Seed Certification to register the crop and season with a registration fee of Rs. 25/- (Rupees twenty-five only) and prescribed certification charges.</p> <p>b) Registration of sowing report-</p> <p>After receiving the application of the sowing report, the Assistant Director of Seed Certification scrutinizes and registers the seed farm and duly assigns a Seed certification number for each sowing report</p> <p>c) Field inspection-</p> <p>Field inspections to check for the factors that may affect the genetic purity and physical health of the seeds are conducted by the Seed Certification Officer (SCO) to whom the specific seed farm has been allocated. Number of field inspections differ from crop to crop</p> <p>d) Seed processing-</p> <p>Once the seeds are harvested from the seed farm by following the required field standards, it is taken to the approved seed processing units. Each seed lot should accompany the processing report and each seed lot in the unit is verified with this report. Processing includes cleaning, drying, grading, treating and other operations to improve the seed quality.</p> <p>e) Seed sample and seed analysis-</p> <p>Seed sample should be sent to the seed testing laboratory for analysis through the Assistant Director of Seed Certification. The fee of Rs.30/- (Rupees thirty only) for seed analysis should be paid during the registration of the seed farm. To analyse the genetic purity of the seed sample, the producer should pay a fee of Rs. 200/- (Rupees two hundred only) to the Assistant Director of Seed Certification</p> <p>f) Tagging and sealing-</p> |
|----|--|--|

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| | | <p>Approved seed lots should be tagged with certification tag within two months from the date of the receipt of seed analysis report or within 30 days from the date of genetic purity test performed. On receipt of the seed tags, it is verified by the Seed Certification Officer. All the prescribed details are entered in the tag without any omission.</p> <p>Supply of seed tags to the seed producer is nothing but an element of the one integrated supply of seed testing and certification. All the above charges, including those for issue of seed certificates/tags by the Seed Certification Agency of Tamil Nadu and Uttarakhand to the seed producing organization/ companies are collected for the composite supply of seed testing and certification, which is exempt under Notification No. 12/2017-Central Tax (Rate) (services by Central/State Governments by way of testing/certification relating to safety of consumers and public at large, required under any law).</p> <p>This clarification would apply to supply of seed tags by seed testing and certification agencies of other states also following similar seed testing and certification procedure.</p> |
| 5. | 101/20/2019-Central Tax, Dt-30.04.2019 | <p><u>GST exemption on the upfront amount payable for long term lease of plots:</u></p> <p>➤ GST exemption on the upfront amount payable for long term lease (of thirty years or more) of industrial plots or plots for development of infrastructure for financial business under Entry No. 41 of Exemption Notification 12/2017 - Central Tax (R) dated 28.06.2017 is admissible irrespective of whether such upfront amount is payable or paid in one or more instalments provided the amount is determined upfront.</p> |
| 6. | 5/2019-, Dt-Central Tax 23.04.2019 and 5/2019- State Tax, Dt-23.04.2019 | <p><u>Extension of the time limit for filing an application for revocation of cancellation of registration for specified taxpayers</u></p> <p>The registered person who was served notice under section 29(2) (Cancellation of Registration) in the manner as provided in clause (c) or clause (d) of section 169(1)(Service of notice in certain circumstances) and who could not reply to the said notice, thereby resulting in cancellation of his registration certificate and is hence unable to file application for revocation of cancellation of registration under section 30(1) of the CGST Act, against such order passed up to 31.03.2019, shall be allowed to file application for revocation of cancellation of the registration not later than 22.07.2019.</p> |
| <p>For detailed Notifications kindly follow below link- http://www.cbic.gov.in/htdocs-cbec/gst/central-tax-notfns-2017</p> | | |

RECENT CASE LAWS

1. Interest arising due to delay in filing of returns under GST should be charged on gross tax liability and not on the net tax liability arising after deducting ITC from the total tax liability

| | |
|------------------------|---|
| Applicant | Megha Engineering & Infrastructures Ltd. |
| Journal of Publication | Writ Petition No.44517 of 2018 |
| Date of Ruling | 18 th April, 2019 |
| Ruling Authority | HIGH COURT OF TELANGANA |

| FACTS |
|---|
| <ul style="list-style-type: none"> The applicant is engaged in the manufacture of MS Pipes and in the execution of infrastructure projects. After the enactment of the Central Goods and Services Tax Act, 2017, the petitioner registered themselves as a dealer under the Act and they claim to be regularly filing returns and paying taxes. |
| ISSUE |
| <ul style="list-style-type: none"> Whether the liability to pay interest under Section 50 of the CGST Act, 2017 is limited only to the net tax liability (after reduction of ITC available in credit ledger) or whether interest is payable on the gross tax liability? |
| HELD |
| <ul style="list-style-type: none"> There was delay on the part of the petitioner in filing the returns in GSTR -3B Forms, for the period from October, 2017 to May, 2018. The total tax liability of the petitioner for the period from July, 2017 to May, 2018 was Rs.1014,02,89,385/- and the ITC available to the credit of the petitioner during this period was Rs.968,58,86,133/-. Thus, there was a shortfall to the extent of Rs.45,44,03,252/- which the petitioner was obliged to pay by way of cash. According to the petitioner they could not make payment and file return within time due to certain constraints. However, the entire liability was wiped out in May, 2018. After the discharge of tax liability by the petitioner, the Superintendent of Central tax issued letters dated 29.06.2018 and 06.07.2018 demanding interest at 18%, in terms of section 50 of the CGST Act, 2017. The Assistant Commissioner also issued a letter dated 04.10.2018 demanding payment of interest. |

- In response, the petitioner sent a letter dated 15.10.2018, pointing out that the interest is to be calculated only on the net tax liability after deducting ITC from the total tax liability. The petitioner also paid an interest of Rs.30,92,522/- towards interest on their net liability.
- However, the Department demanded interest on **gross tax** liability.
- The case of the petitioner is that the GST Portal is designed in such a manner that unless the entire tax liability is charged by the assessee, the system will not accept the return in GSTR - 3B Form. As a result, even if an assessee was entitled to set off, to the extent of 95%, by utilizing the ITC, the return cannot be filed unless the remaining 5% is also paid.
- Section 41 deals with the claim of ITC and the provisional acceptance thereof. Under this provision, every registered person is entitled to take the credit of eligible input tax, as self-assessed in his return. The amount so claimed shall be credited on a provisional basis to his electronic credit ledger. But, this credit can be utilized only for payment of self-assessed output tax as per the return.
- The present dispute revolves around **section 50 of the CGST Act, 2017** which deals with interest in case of delayed payments in tax. It is seen in section 50(1) that the **liability to pay interest arises automatically**, when a person who is liable to pay tax, fails to pay the tax to the Government within the period prescribed. The liability to pay interest is in respect of the period of which the tax remains unpaid. In fact, the liability to pay under section 50(1) arises even without any assessment, as the person is required to pay such interest **“on his own”**.
- As per sec 50(1) of CGST Act, 2017 “Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.”
- Therefore, it is clear that the liability to pay interest under Section 50 (1) is self-imposed and also automatic, without any determination by any one. Hence, the stand taken by the department that the liability is compensatory in nature, appears to be correct.
- Admittedly, the petitioner filed returns belatedly, for whatever reasons. As a consequence, the payment of the tax liability, partly in cash and partly in the form of claim for ITC was made beyond the period prescribed. Therefore, the liability to pay interest under Section 50 (1) arose automatically. The petitioner cannot, therefore, escape from this liability.
- **Only when the payment is so made by the assessee, the Government gets a right over the money available in the ledger. Since ownership of such money is with the dealer till the time of actual payment, the Government become entitled to interest up to the date till which ownership vests with assessee.**
- In the view of the above, the claim made by the petitioner for interest on the ITC portion of the tax cannot be found fault with. Hence, the Writ Petition is dismissed and concluded that the interest on delay of payment of tax liability is to be charged on the entire gross liability arising in the return period for which such default has been made.

2. Leasing/Renting the warehouse for commercial purpose is liable to pay GST @ 18%

| | |
|------------------------|----------------------------------|
| Applicant | M/S Awla Infra |
| Journal of Publication | HAR/HAAR/R/2018-19/13 |
| Date of Ruling | 13 th September, 2018 |
| Ruling Authority | AAR Haryana |

| FACTS |
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| <ul style="list-style-type: none">• The applicant is engaged in the construction of building and commercial properties, including storage capacity structures.• The applicant participated in the tender enquiry invited by the nodal agency HAFED for construction of godowns for FCI storage requirements in the state of Haryana under the said PEG-2008 scheme of the central government/ FCI.• On being successful at the tender enquiry the applicant was issued letter of allotment for construction of godowns for storage of food grains at various locations in the state of Haryana. |
| ISSUE |
| <ul style="list-style-type: none">• Whether the GST is exempt or is applicable on the private Entrepreneurs Godowns built under the PEG-2008 scheme of the FCI and leased out to the Nodal Agency on Lease and services basis for the storage of FCI's food grain stocks? |
| HELD |
| <ul style="list-style-type: none">• In terms of provisions of CGST Act, 2017 "Rent received on leasing of immovable property" is taxable, while the "storage or warehousing of agriculture produce (wheat & paddy) and rice" is exempt from GST.• The services i.e. leasing of immovable property and support services in relation to agricultural produce, provided by the applicant are in the nature of Mixed Supply in terms of sec 2(74) of the ibid and hence , attract 9% CGST +9%HGST (18%IGST) as applicable to SAC 997212.• In view of the facts, it is obvious that the amount of rent paid by nodal agency to the owner of godowns is taxable in the hands of owner of godowns, whether to reimburse the same or not is to be determined by the agreement entered in between the lessor and lessee.• In view of the above, the applicant is liable to pay GST @ 18% for leasing/ renting the warehouse for commercial purpose. |

3. [Rule 32\(5\) of the CGST Rules, 2017 which provides for Margin Scheme in case of intra-state supplies shall also be applicable in case of intra-state supplies of used lead acid batteries while operating under the Margin Scheme](#)

| | |
|-------------------------------|--------------------------------------|
| Applicant | M/s Shambhu Traders Pvt. Ltd. |
| Journal of Publication | RAJ/AAR/2018-19/35 |
| Date of Ruling | 15 th January, 2019 |
| Ruling Authority | AAR Rajasthan |

| FACTS |
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| <ul style="list-style-type: none"> • The applicant is engaged in the business of selling used lead batteries to various manufacturers. • He is operating under the Margin Scheme notified under Rule 32(5) of the CGST Rules, 2017. • The applicant purchases these used lead acid batteries from unregistered suppliers in small quantity and subsequently sells them to various manufacturers and charges GST on difference between the sale and the purchase price of acid batteries. |
| ISSUE |
| <ul style="list-style-type: none"> • Whether such used lead acid batteries qualify as second hand goods and thus covered under the Margin scheme notified under Rule 32(5) of the CGST Rules, 2017? • The tax on Outward supply under the Margin scheme would be qualified under which of the following heading in GSTR-3B in following cases: <ul style="list-style-type: none"> ➤ a) When Applicant selling the goods within the state? ➤ b) When Applicant selling the goods outside the state? • Whether the goods when sold outside the state or when sold within the state of Rajasthan qualifies under the Margin Scheme? |
| HELD |
| <ul style="list-style-type: none"> • The used lead acid batteries qualify to second hand goods. Accordingly, the applicant dealer is entitled to operate under the Margin Scheme in respect of the used lead acid batteries. • The query raised by the applicant is not specified in Section 97(2) of CGST Act/RGST Act, 2017, therefore no advance ruling is given. • The Rule 32(5) of the CGST Rules, 2017 which provides for Margin Scheme in case of intra-state supplies shall also be applicable in case of intra-state supplies of used lead acid batteries while operating under the Margin Scheme. |

4. Tax rate to be charged by applicant to main contractor would be at rate of 12 per cent for railway contract.

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|-------------------------------|-----------------------------------|
| Applicant | M/S Shree Construction Ltd |
| Journal of Publication | MAH/AAAR/SS-RJ/15/2018-19 |
| Date of Ruling: | 3 rd January, 2019 |
| Ruling Authority | AAAR MAHARASHTRA. |

| FACTS |
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| <ul style="list-style-type: none">• M/s. Shree Construction are providing works contract service as sub-contractor to main contractor for original contract work pertaining to railways.• They execute and undertake composite supply of works contract.• The rate of GST is 12% for composite supply as per the Notification No-20/2017 of CGST Composite Supply of works contract supplied by way of construction, erection, commission or installation of works contract pertaining to railways.• Shree Corporation say that they are sub-contractor providing service to main contractor for original contract work pertaining to railways and they should charge 12% GST and only not 18% as applicable in other cases. |
| ISSUE |
| <ul style="list-style-type: none">• What tax rate to be charged by the sub-contractor to main contractor on Works Contract Services pertaining to railways original works contract?• Whether to charge tax rate of 12% GST or 18% GST? |
| HELD |
| <ul style="list-style-type: none">• The tax rate to be charged by the sub-contractor to the main contractor would be @6% of CGST and 6% of SGST. |

5. GST should be charged on total freight amount inclusive of cost of diesel so provided by service recipient company.

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|-------------------------------|---------------------------------|
| Applicant | M/s Shri Navodit Agarwal |
| Journal of Publication | STC/AAR/10/2018 |
| Date of Ruling | 26th March 2019 |
| Ruling Authority | AAR Chhattisgarh |

| FACTS |
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| <ul style="list-style-type: none"> The applicant is a transporter in few cement companies and is engaged in transporting Cement/Clinkers. |
| ISSUE |
| <ul style="list-style-type: none"> Whether GST is to be charged on Freight amount excluding diesel cost or on total amount which is inclusive of diesel cost? |
| HELD |
| <ul style="list-style-type: none"> In the above case the applicant is a transporter in few cement companies of Chhattisgarh. They are also to commence transportation for Shree Raipur Cement. The recipient Shree Raipur Cements has moved a proposal that while transporting their Cement /Clinker they will provide the required diesel for transportation of the same and that the applicant needs to charge them freight excluding diesel cost and hence GST will also be levied on taxable amount i.e. the amount excluding the diesel cost. The applicant went through the valuation rules of GST Act, wherein it was mentioned that if the service recipient provides any input goods to service providers while rendering the service the cost of that goods will be included in taxable value of services provided by the service provider and that the service receiver needs to raise separate bill to service provider for that input goods. The applicant has expressed their view that they need to charge GST to Shree Raipur Cement, C.G on total amount including diesel cost and Shree Raipur Cement will raise separate invoice for diesel upon them. In the instant case the service recipient i.e. M/S Shree Raipur Cement, is providing diesel to the vehicles used by the applicant to transport cement/clinkers in the course of business. Diesel so provided by the service recipient to the applicant forms an important and integral component of this business process, without which the process of supply of cement can never get materialized. Thus from the above provisions discussed above, it gets clear that any amount that the supplier liable to pay in relation to such supply but which has been incurred by the recipient |

of the supply and not included in the price actually paid or payable for the goods or services or both is includible in value.

- The ruling so sought by the applicant is accordingly answered as, in respect to the views expressed by the applicant is required to charge GST upon M/s Shree Raipur Cement, C.G on the total amount including the cost of diesel i.e. on the total freight amount inclusive of the cost of diesel so provided by the service recipient i.e. M/s Shree Raipur Cement.

6. GST paid on cars provided to different customers on lease rent will be available as Input Tax Credit (ITC).

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|-------------------------------|--------------------------------|
| Applicant | M/S. Narsingh Transport |
| Journal of Publication | 02/2019 dated 18.02.2018 |
| Date of Ruling | 18th February, 2019 |
| Ruling Authority | AAR Madhya Pradesh |

| FACTS |
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| <ul style="list-style-type: none"> The applicant is a “Goods Transport Agency” and it is availing an option to pay tax @12% and is availing ITC facility on vehicles and their spares used for providing for providing GTA services namely insurance, repairs and maintenance. The applicant has currently purchased a car and has provided them to various companies on lease agreement. Lease rent is to be paid monthly. The applicant has purchased car for business purpose and has paid GST as applicable while purchasing. |
| ISSUE |
| <ul style="list-style-type: none"> Whether the GST paid on cars provided to their customers on lease will be applicable as Input Tax Credit (ITC) in terms of section 17(5). |
| HELD |
| <ul style="list-style-type: none"> Here the applicant is carrying on business of “Goods Transport Agency” availing an option to pay tax @12% and is availing ITC on various inward supplies relating to the furtherance of the business. The applicant has currently purchased a car and is providing to various companies on lease rent under a lease agreement entered between them on monthly basis for their use in furtherance of their business. The applicant has therefore raised a question whether the GST paid on these cars provided to different to customers will be available for Input Tax Credit in terms of section 17(5) of CGST Act, 2017. The concerned officer of SGST gave the following views – The applicant is entitled to avail ITC on vehicles which are further supplied to customers on lease rent, subject to condition applicable as per section 17(5) of CGST Act, 2017, Madhya Pradesh Goods and Services Tax Act, 2017 and notification number 11/2017 central tax (Rate) dated 28 June, 2017. Such vehicle must be registered for Commercial use and Permit holder as per section 66 under Motor Vehicle Act, 1988. The availability / non-availability of ITC is governed by Section 17(5) in case of Motor Vehicles of CGST Act, 2017. Section 17(5) envisages the conditions for ITC on motor vehicles under the said section. Section 17(5) of CGST Act, 2017 provides that input tax credit in respect of the following shall not be available. |

Motor vehicle and other conveyances except when they are used for making the following taxable supplies, namely —

- Further supply of such vehicles or conveyances; or
 - Transportation of passengers; or
 - Imparting training on driving, flying, navigating such vehicles
- As per the above provision, the applicant who has purchased cars after paying GST for the purpose of renting (under monthly lease agreement between applicant & their customers) in furtherance of their business is correctly entitled for input tax credit of GST paid by applicant.
 - The applicant is a registered service provider under GST Act. The motor vehicles (cars) purchased have been charged GST at applicable rate. The applicant will not claim depreciation on these vehicles under Income Tax Act, 1961.
 - The vehicles purchased are further supplied for making a taxable supply / service namely lease rent supply / lease rent service for furtherance of their business.
 - The whole issue revolves here around the "Input Tax Credit", it can be seen that in case of in case of motor vehicles, except in certain circumstances, the Input Tax Credit is not available. In the present case before us, the Applicant is providing cars on Lease Rent to their customers for carrying Passengers and hence not covered by the exception as provided in clause (B) and (C) of sub section 5(a).
 - The amendment, reads as "further supply of such vehicles or conveyances". The words "taxable supply" & "further supply" finding a place in the said sub- sections are of great importance here and therefore we find it necessary to draw the attention towards their literal and legal meanings in the GST regime.
 - We observe that the term "further supply" has not been defined in the Act, therefore one has to go by definition of "supply" which is the very plinth of GST law. The term 'further' prefixed to 'supply' is merely in the form of adverb and does not differentiate it from 'Supply'.
 - In the light of the facts as discussed in details in previous paras, the activities carried by the applicant regarding supply of tax paid motor vehicles on monthly lease rent plus Goods & Service Tax as applicable to their customer under a proper agreement properly satisfies the conditions laid down under Section 17(5) (a) (i) (A) before the amendment and under subsection 5(a)(A) after the amendment to make it eligible for availment of input tax credit on motor vehicle for the Tax paid by it while acquiring the said vehicles.
 - Hence as per ruling u/s 98 of CGST Act,2017 the Applicant is entitled to avail ITC on cars (passenger vehicles) which are further supplied to customers on lease rent, the provision of rule 42 shall also be applicable if required so. At the termination of lease agreement/contract, if the vehicle is not further leased to same or other customer, the applicant shall be liable to reverse the ITC SO availed as per law. Such vehicles should be registered for commercial use with transport authority and not to put to own use by the applicant.

7. Conduct of marathon event through which donation is raised is a taxable supply.

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|-------------------------------|---------------------------------|
| Applicant | Dream Runners Foundation |
| Journal of Publication | TN/06/AAR/2019 |
| Date of Ruling: | 22 nd January 2019 |
| Ruling Authority | AAR Tamil Nadu |

| FACTS |
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| <ul style="list-style-type: none">• The applicant is engaged in conducting public charitable activities such as Healthcare, Rural development, women empowerment, education facility etc. either directly or through various public charitable institutions for the common good of the general public of and in India, irrespective of caste, religion, creed, gender and without any motive for profit.• The principal objects of the Trust as per the Trust deed is to organize events like Marathon, Blood donations Camp, Organ donation camp, Eye donation camp etc. and utilize the funds raised from such events for charitable cause. |
| ISSUE |
| <ul style="list-style-type: none">• Whether the conduct of marathon events by the Applicant who is a Trust approved under Section 12AA of the Income Tax Act 1961 through which donations are raised for charity is an exempted service under GST?• When the Trust is approved under Sec 12AA of the Income Tax Act 1961 which means that the service of the Trust is charitable in nature. Does it not automatically become a charitable activity that is exempted under GST?• As the service rendered by the Trust is a charitable activity within the definition of Clause 2(r) of Notification No.12/2017-Central Tax (Rate), is registration under GST required?• Are donations received from participants of the marathon event exempted from GST as it is money paid for conduct of a marathon event for raising funds for charity? |
| HELD |
| <ul style="list-style-type: none">• They have stated to have engaged in conducting public charitable activities as Health care, rural development, Women empowerment, Education facility etc., either directly or through various public charitable institutions. The principal objects of the Trust as per the Trust Deed is to organize events like Marathon, Blood Donation Camp, Organ Donation Camp, Eye Donation Camp, Health Awareness Camp etc.• The Applicant has stated that the Trust was registered under Sec 12AA of the Income Tax Act, 1961. Donations to the trust are also exempted from tax under section 80G of the Income Tax Act 1961. |

- In line with the stated objects, the Trust had organized and conducted every year a marathon event named Dream Runners half Marathon since 2012.
- The amount so received is utilized for the conduct of the event that includes permit and approval fees, fees paid to the government authorities, expenses for the conduct of the event that includes prize money for the winners and the balance left is paid as donations to the NGOs supporting the cause or directly to the beneficiaries.
- The Applicant has further stated that they conduct event always for a public cause. The cause for the last three editions was for prosthetic legs. The net proceeds of the event were, for the last three years, donated to Freedom Trust a NGO.
- The accounts of the trust are duly audited and annual audited statements are filed with the concerned authorities including the filing of return with the Income Tax authorities. The details of the donations raised from past three marathons are shown in the below table:

| Financial Year | Total donation received (INR) | Net Amount donated (INR) |
|------------------------|--------------------------------------|---------------------------------|
| 2015-16 | 53,85,500 | 6,90,000 |
| 2016-17 | 53,66,250 | 8,98,884 |
| 2017-18 (Estimated) | 63,11,967 | 7,69,250 |

- The applicant has also submitted that under Service Tax regime the activities of the trust were not under the purview of service tax legislations as it satisfied the conditions for exemption.
- The Authorized Representative of the Applicant was heard in the matter. They have stated that they conduct marathon events for seeking donations to charitable activities. They have stated that they email receipts to the participants to qualify for the 80G certificate of Income Tax. They have also informed that the money is collected by the registration partner who is paid a part of the collection for use of their portal.
- On verification of the documents submitted. It is seen that Dream Runners Foundation is a Trust formed in 2013, registered as a public charitable trust with Income Tax, with the objective to organize events like Marathon, Blood Donation Camp, Organ Donation Camp, Eye Donation Camp.
- In the above case it can be seen that applicants collect an amount from participants treating them as donations. It is seen from the balance sheet that from these collected amount expenses for conducting the marathon, paying the registered partner, event management expenses, and prize money is met and some portion of the balance is given as donation for various activities.

- The money collected by the Applicant, from the participant in the Marathon is used for the expenses of organizing the Marathon in terms of paying the registration partner, event management charges, prize money, publicity, other organizing expenses such as T-shirts, banners and other related materials etc. Therefore, the money collected from the participants is a consideration towards the supply of service of organizing and conducting the marathon for the participant's conduct of marathon event and the same is liable to GST.
- The Applicant has claimed that their activities are exempted under Sl. No. 1 of Notification No. 12/2017-Central Tax (Rate) dated 28th June 2017. But only those activities of such an entity are exempt from GST which qualify under the definition of "charitable activities" given in the notification. This activity of conduct of Marathon event by the Applicant does not fall under the definition for Charitable activities mentioned under clause 2(r) of Notification 12/2017 Central Tax (Rate) dated 28th June 2017. Therefore though the Applicant is an entity registered under Section 12 AA of the Income Tax Act, the exemption under Sl. No. 1 of these notification does not apply to the activity of organizing the marathon by the Applicant.
- With respect the above case following ruling was passed:
 - 1) The conduct of Marathon event by the Applicant for the participants is a not an exempt supply under CGST/TNGST Act.
 - 2) Only those activities of Applicant, who is a Trust is under Sec 12AA of the Income Tax Act 7961, which fall under the definition of "charitable activities "as per Clause 2(r) of Notification 12/2017 Central Tax(Rate) dated 28th June2017 and notification no. II (2)/CTR/532(d-15)12017 vide G.O. No. 73 dated 29.06.2017 are exempt.
 - 3) As the Applicant is supplying taxable supply of services such as organizing marathon etc. and has aggregate turnover in a financial year exceeding twenty lakh rupees, the Applicant is required to be registered under CGST/TNGST Act.
 - 4) The money collected from the participants for conduct of the Marathon in the event organized by the Applicant and therefore is not exempted from CGST/ SGST.

8. [ITC is not admissible on ambulances purchased for the benefit of employees as per Section 17\(5\) of CGST Act, 2017 even if provisioning of ambulance service to employees is obligatory under Factories Act, 1948.](#)

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|-------------------------------|-------------------------------------|
| Applicant | Nipa Exports Private Limited |
| Journal of Publication | 43/WBAAR/2018-19 |
| Date of Ruling | 26 th February, 2019 |
| Ruling Authority | AAR West Bengal |

| FACTS |
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| <ul style="list-style-type: none"> The applicant is a manufacturer of Agricultural Machinery. |
| ISSUE |
| <ul style="list-style-type: none"> Whether ITC is admissible on ambulances purchased for the benefit of employees, even if provisioning of ambulance service to employees is obligatory under Factories Act, 1948? |
| HELD |
| <ul style="list-style-type: none"> As per Section 17(5) of the GST Act, input tax credit shall not be available in respect of the following, namely:- <ol style="list-style-type: none"> motor vehicles and other conveyances except when they are used- <ol style="list-style-type: none"> for making the following taxable supplies, namely:- <ul style="list-style-type: none"> further supply of such vehicles or conveyances; or transportation of passengers; or imparting training on driving, flying, navigating such vehicles or conveyances for transportation of goods Section 17(5)(b)(iii)(A) of the GST Act provides for services which are obligatory for an employer to provide to its employees under any law for the time being in force But the above provision are limited only to rent-a-cab, life insurance and health insurance services. It is evident from above that input tax credit on inward supply of ambulance, being a motor vehicle, is not admissible under Section 17(5)(a) of the GST Act. The exception carved out under Section 17(5)(b)(iii)(A) of the GST Act for services which are obligatory for an employer to provide to its employees under any law for the time being in force is limited only to rent-a-cab, life insurance and health insurance. In view of the above facts, Input tax credit is not admissible on the ambulance purchased in November 2018, as Section 17(5) of the GST Act, as it stood in the relevant period, blocks any such enjoyment, even if provisioning of ambulance service to the employees is obligatory under the Factories Act, 1948. |

9. [Transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST](#)

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|-------------------------------|--|
| Applicant | M/S TP AJMER DISTRIBUTION LIMITED |
| Journal of Publication | RAJ/AAAR/2018-19/03 |
| Date of Ruling | 26 th February, 2019 |
| Ruling Authority | AAAR Rajasthan |

| FACTS |
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| <ul style="list-style-type: none"> • Tata Power Company Limited (TPCL) has entered into a distribution franchisee agreement with Ajmer Vidyut Vitran Nigam limited. • TPCL has undertaken to supply electricity to the customers of AVVNL in Ajmer district, Rajasthan for a period of 20 years. • TPLC has a set up a Special Purpose Vehicle under the name of M/s. TP Ajmer Distribution Limited (Appellants) • The appellants are responsible for operating and maintaining the distribution network in Ajmer City and supplying Electricity to Industrial and domestic consumers. |
| ISSUE |
| <ul style="list-style-type: none"> • Whether the various Non-tariff charges recovered by the appellants from its customers would be eligible for exemption under Sr. no. 25 notification No. 12/2017-Central tax? |
| HELD |
| <ul style="list-style-type: none"> • The appellants raise invoice on the customers for the consideration for supply of electricity. • The charges are recovered in terms of Rajasthan Electricity Regulatory Commission Regulation,2017. • The appellants also recover some Non-tariff charges from the customer for certain specific activities carried out by the appellants for the customers. • The Non-tariff charges are fixed and recovered from the customers in accordance with the provisions of electricity Act,2003 and regulations made in this behalf by the Rajasthan Electricity Regulatory Commission. • No GST is chargeable on the delayed payment charges collected from the customers for delay in payment of consideration for electricity. While GST is chargeable on the cheque dishonor changes collected from the customers. |

10. Transfer of business as a going concern is exempted from levy of GST

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|-------------------------------|------------------------------------|
| Applicant | M/S Innovative Textiles Ltd |
| Journal of Publication | 20/2018-19 |
| Date of Ruling | 26 th March,2019 |
| Ruling Authority | AAR Uttarakhand |

| FACTS |
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| <ul style="list-style-type: none">The applicant is seller and is carrying on the business of manufacturing of textile yarns, fabrics |
| ISSUE |
| <ul style="list-style-type: none">Whether “Business transfer agreement” as a going concern on slump sale basis is exempted from levy of GST as per Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017? |
| HELD |
| <ul style="list-style-type: none">On perusal of Serial no. 2 of the said notification, it is mentioned that services by way of transfer of a going concern, as a whole or an independent part thereof.As per sec 2(7) (d) of the act “Business” includes supply or acquisition of goods including capital goods and services in connection with commencement or closure of business.The applicant intends to sell the ongoing business along with its all assets & liabilities and the said business is live/operating.The purchaser intends to carry on the same kind of business prior to transfer of business.In view of the above facts, the applicant has supplied services by way of transfer of business as a going concern, and as per Sr. no 2 of Notification No. 12/2017- Central Tax (Rate), the same is exempted from levy of GST as on date. |