
KEY UPDATES

MARCH, 2019



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SIGNIFICANT NOTIFICATIONS

Sr. No	Notification No.	Key Update
1.	<p>10/2019- Central Tax, Dt- 07-03- 2019;</p> <p>2/2019 - Union Territory Tax, Dt - 07-03- 2019</p> <p style="text-align: center;">and</p> <p>10/2019 - State Tax, Dt - 07-03- 2019</p>	<p>➤ <u>Exemption from registration for any person engaged in exclusive supply of goods.</u></p> <p>Any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed forty lakh rupees is exempt from obtaining registration.</p> <p>The exceptions are as follow:</p> <p>(i) Persons required to take compulsory registration under section 24 of CGST Act.</p> <p>(ii) Persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa; pan masala; and tobacco & manufactured tobacco substitutes.</p> <p>(iii) Persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand</p> <p>(iv) Persons taking voluntary registration under section 25 (3) of the said Act.</p> <p>This notification shall come into force on the 1st day of April, 2019.</p>
2.	<p>11/2019- Central Tax, Dt- 07-03- 2019</p> <p style="text-align: center;">and</p> <p>11/2019 - State Tax, Dt - 07-03- 2019</p>	<p>➤ <u>Prescribes due dates for furnishing FORM GSTR-1 for taxpayers with aggregate turnover up to Rs. 1.5 crores for the months of April, May and June, 2019</u></p> <p>The said registered persons shall follow the special procedure to furnish details of outward supply in FORM GSTR 1 for the months of April, May and June 2019 till 31st July, 2019.</p> <p>➤ The time limit for furnishing the details or return, GSTR 3B, for the months of July, 2017 to June, 2019 shall be subsequently notified in the Official Gazette.</p>
3.	<p>12/2019- Central Tax,</p>	<p>➤ <u>Extension of time limit for furnishing GSTR1 for the months of April, 2019 to June, 2019</u></p>

	<p>Dt- 07-03-2019</p> <p>and</p> <p>12/2019 - State Tax, Dt - 07-03-2019</p>	<p>The registered persons having aggregate turnover of more than Rs. 1.50 crores shall furnish details in FORM GSTR 1 for the months of April, May and June 2019 till the eleventh day of the month succeeding such month.</p> <p>➤ The time limit for furnishing the details or return, GSTR 3B, for the months of July, 2017 to June, 2019 shall be subsequently notified in the Official Gazette.</p>
4.	<p>13/2019- Central Tax, Dt- 07-03-2019</p> <p>and</p> <p>13/2019 - State Tax, Dt - 07-03-2019</p>	<p>➤ <u>Due dates for furnishing FORM GSTR-3B for the months of April, 2019 to June, 2019.</u></p> <p>The registered persons shall furnish FORM GSTR 3B for the months of April, May and June 2019 electronically through the common portal, and discharge the liability towards tax, interest, penalty, fees or any amount payable on or before the 20th day of the month succeeding such month.</p>
5.	<p>14/2019- Central Tax, Dt- 07-03-2019</p> <p>and</p> <p>14/2019 - State Tax, Dt - 07-03-2019</p>	<p>➤ <u>Extension of threshold limit for availing Composition Scheme u/s 10 of the CGST Act, 2017 to Rs. 1.5 crores.</u></p> <p>An eligible registered person, whose aggregate turnover in the preceding financial year did not exceed Rs. 1.50 crores, may opt for the Composition Scheme as per Section 10 of the CGST Act, 2017.</p> <p>However, in case of Special States (such as Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand) the aggregate turnover shall be Rs. 75 lakhs.</p> <p>Persons engaged in the manufacture of</p> <ul style="list-style-type: none"> • ice cream and other edible ice, whether or not containing cocoa; • pan masala; and • tobacco & manufactured tobacco substitutes <p>shall not be eligible to opt for Composition levy under section 10(1) of the said Act.</p> <p>➤ This notification shall come into force on the 1st day of April, 2019.</p>

6.	15/2019- Central Tax, Dt- 28-03- 2019	<p>➤ <u>Extension of due date for FORM GST ITC-04 for period July 2017 to March 2019.</u></p> <p>Due date for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to March, 2019 has been extended till the 30th day of June, 2019.</p>
7.	<p>2/2019 - Central Tax (Rate), Dt- 07-03- 2019;</p> <p>2/2019 - Union Territory Tax (Rate), Dt- 07-03- 2019</p> <p>and</p> <p>2/2019 - State Tax (Rate), Dt - 07-03- 2019</p>	<p>➤ <u>Composition scheme for supplier of services with a tax rate of 6% (3% CGST and SGST/UTGST each) having annual turnover in preceding year upto Rs 50 lakhs</u></p> <p>1. Supplies are made by a registered person:</p> <p>❖ <u>Conditions are as follows:</u></p> <p>(i) Whose aggregate turnover in the preceding financial year was Rs. 50 lakh or below.</p> <p>(ii) Who is not eligible to pay tax under section 10 (1) of the said Act</p> <p>(iii) Who is not engaged in making any supply which is not leviable to tax under the said Act;</p> <p>(iv) Who is not engaged in making any inter-State outward supply.</p> <p>(v) Who is neither a casual taxable person nor a non-resident taxable person.</p> <p>(vi) Who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52.</p> <p>(vii) Who is not engaged in making supplies of the following goods - Ice cream and other edible ice, whether or not containing cocoa, Pan masala and tobacco & tobacco manufactured substitutes.</p> <p>2. Where more than one registered persons are having the same PAN, GST on supplies by all such registered persons is paid @6%.</p> <p>3. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any ITC.</p> <p>4. The registered person shall issue, instead of tax invoice, a bill of supply as referred to in section 31(3)(c) of the said Act with particulars as prescribed in rule 49 of CGST Rules.</p>

		<p>5. 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'.</p> <p>6. The registered person opting to pay GST @ 6% under this notification shall be liable to pay GST at the @ 6% on all outward supplies.</p> <p>7. The registered person opting to pay GST @ 6% under this notification shall be liable to pay GST on inward supplies on which he is liable to pay tax under 9(3) or, as the case may be, under of section 9 (4) or of said Act at the applicable rates.</p>																				
8.	<p>3/2019 - Central Tax (Rate), Dt- 29-03-2019;</p> <p>3/2019- Integrated Tax (Rate), Dt - 29-03-2019;</p> <p>3/2019 - Union Territory Tax (Rate), Dt - 29-03-2019</p> <p>and</p> <p>3/2019 - State Tax (Rate), Dt - 30-03-2019</p>	<p>➤ <u>Notifies CGST rates for various services as recommended by GST Council for real estate sector.</u></p> <p>➤ <u>This notification has been issued to prescribe the new rates for the Real estate sector. The summary of the same are as followed</u> <u>RREP - Residential Real Estate Project</u> <u>REP - Real Estate Project</u></p> <table border="1"> <thead> <tr> <th>Type of Apartment</th> <th>Category</th> <th>New Rate</th> <th>Comparison effective rate after 1/3rd deduction</th> <th>Conditions</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Residential</td> <td>Construction of affordable residential apartments by a promoter in RREP / REP - to a buyer :- a)New b)Ongoing - not opted for old rates</td> <td>1.50%</td> <td>Old Rate - 8% or 12% New Rate - 1%</td> <td rowspan="4"> i. Tax should be paid in cash. ii. No ITC. This is to be reported in GSTR-3B - 4D(2) iii. Credit availed is to be reversed . This will be relevant for future income. iv. 80% of the total residential apartments </td> </tr> <tr> <td>Other than affordable Residential apartments of above category</td> <td>7.50%</td> <td>Old Rate - 12% New Rate - 5%</td> </tr> <tr> <td rowspan="2">Commercial</td> <td>Construction of Commercial apartments by a promoter in RREP:- a)New</td> <td>7.50%</td> <td>Old Rate - 12% New Rate - 5%</td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Type of Apartment	Category	New Rate	Comparison effective rate after 1/3 rd deduction	Conditions	Residential	Construction of affordable residential apartments by a promoter in RREP / REP - to a buyer :- a)New b)Ongoing - not opted for old rates	1.50%	Old Rate - 8% or 12% New Rate - 1%	i. Tax should be paid in cash. ii. No ITC. This is to be reported in GSTR-3B - 4D(2) iii. Credit availed is to be reversed . This will be relevant for future income. iv. 80% of the total residential apartments	Other than affordable Residential apartments of above category	7.50%	Old Rate - 12% New Rate - 5%	Commercial	Construction of Commercial apartments by a promoter in RREP:- a)New	7.50%	Old Rate - 12% New Rate - 5%			
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				b)Ongoing – not opted for old rates			should be under “affordable” category. If not, then the recipient shall pay shortfall as RCM, for respective financial year. (Additional Conditions mentioned below)
		Residential	Residential Ongoing project-covered under 8% earlier “Old affordable housing schemes” & opted for old rates	12%	Old Rate - 8%	New Rate - 8%	This option should be exercised by 10th May, 2019.
		Residential /Commercial	a)Commercial in REP / RREP b)Residential Other than those covered above & opted for old	18%	Old Rate - 12%	New Rate - 12%	This option should be exercised by 10th May, 2019.

➤ **Additional Conditions:**

- In case of **supply of cement from unregistered supplier, RCM** will be applicable at the rate of 28%.
- For a residential apartment to be affordable – the area should be upto **60 or 90 sq. metres for metro or non-metro area** respectively and the Gross Value should be less than **Rs. 45 lakhs**.
- Tax should be paid on construction services provided to land owner.

- Time of Supply for the above shall be date of **Completion Certificate or Occupancy Certificate (OC), whichever is earlier** and the value shall be determined as per the first sale value of similar flat sold nearby less the land value.
- Landowner would be eligible for credit of tax charged by the developer.
- The tax treatment for the **new transactions related to the land owner** shall be as followed:

<u>Service</u>	<u>Parties involved</u>	<u>Treatment</u>
Development rights	Land owner to Builder	Residential: Exempted , if all the flats were sold before OC. Otherwise, liable under RCM , on value in proportion of flats remained unsold as on date of OC. Commercial Developer would be liable to pay GST under RCM .
Construction services	Builder to land owner	Taxable
Construction services	Land owner to Buyer	Taxable if sold prior to date of Occupancy Certificate.

9. 04/2019-
Central Tax
(Rate),
Dt-29-03-
2019;

4/2019-
Integrated
Tax (Rate),
Dt - 29-03-
2019;

- **Exemption of certain services as recommended by GST Council for real estate sector.**

Description of Services	Rate	Conditions
▪ Service by way of transfer of developmental rights (TDR) or Floor Space Index (FSI) on or after 01.04.19 for construction of residential apartments by a promoter in a project, intended for	NIL	▪ Provided that promoter is liable to pay tax on reverse charge basis at applicable rates on such proportion of value of developmental rights or FSI or both, that is attributable to residential apartments which remains unbooked on the date of issue of completion certificate, or first occupation of the project.

	<p>4/2019 - Union Territory Tax (Rate), Dt - 29-03-2019</p> <p>and</p> <p>4/2019 - State Tax (Rate), Dt - 30-03-2019</p>	<p>sale to a buyer, wholly or partly, except where entire consideration has been received after issuance of Completion Certificate, by the competent authority or after its first occupation, whichever is earlier.</p> <ul style="list-style-type: none"> ▪ <u>The amount of exemption is calculated as under:</u> <p>[GST payable on TDR or FSI (including additional FSI) or both of construction project] × [carpet area of residential apartments in the project] ÷ [Total carpet area of residential and commercial apartments]</p> <ul style="list-style-type: none"> ▪ UPFRONT Amount (called as premium, salami, cost price, developmental charges) 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 by a promoter in a project, intended 	<ul style="list-style-type: none"> ▪ Provided that the tax payable should not 0.5 and 2.5 percent of the value in case of affordable and other than affordable residential apartments respectively. ▪ This liability to pay central tax on the said portion of TDR or FSI, or both shall arise on date of completion or first occupation of the project, whichever is earlier. ▪ This liability to pay central tax on the said proportion of upfront amount shall arise on date of issue of completion certificate or first occupation of the project, as the case may be.
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for sale to a buyer, wholly or partly, except where entire consideration has been received after issuance of Completion Certificate, by the competent authority or after its first occupation, whichever is earlier.

▪ **The amount shall be calculated as under:**

[GST payable on Upfront Amount payable for long term lease of land for construction of project] × [carpet area of residential apartments in the project] ÷ [Total carpet area of residential and commercial apartments]

The additional paragraphs inserted are as follows-

- Value of supply of service by way of transfer of development rights or FSI by a person to the promoter against consideration in the form of residential or commercial apartments shall be deemed to be equal to the value of similar apartments charged by the promoter from the independent buyers nearest to the date on which such development rights or FSI is transferred to the promoter.
- Value of portion of residential or commercial apartments remaining un-booked on the date of issuance of completion certificate or first occupation, as the case may be, shall be deemed to be equal to the value of similar apartments charged by the promoter nearest to the date of issuance of completion certificate or first occupation, as the case may be.

		<p>➤ “An apartment booked on or before the date of issuance of completion certificate or first occupation of the project” shall mean an apartment which meets all the following three conditions, namely-</p> <p>a) Part of supply of construction of the apartment service has time of supply on or before the said date; and</p> <p>b) Consideration equal to at least one instalment has been credited to the bank account of the registered person on or before the said date; and</p> <p>c) An allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the said date.</p> <p>➤ This notification shall come into force on the 1st day of April, 2019.</p>									
9.	<p>05/2019-Central Tax (Rate), Dt-29-03-2019;</p> <p>5/2019-Integrated Tax (Rate), Dt - 29-03-2019;</p> <p>5/2019 - Union Territory Tax (Rate), Dt - 29-03-2019</p> <p>and</p> <p>5/2019 - State Tax (Rate), Dt - 30-03-2019</p>	<p>➤ <u>Specified services to be taxed under Reverse Charge Mechanism for real estate sector.</u></p> <table border="1" data-bbox="505 856 1365 1824"> <thead> <tr> <th data-bbox="505 856 810 968">Category of supply of Service</th> <th data-bbox="810 856 1055 968">Supplier of service</th> <th data-bbox="1055 856 1365 968">Recipient of service</th> </tr> </thead> <tbody> <tr> <td data-bbox="505 968 810 1306">Transfer of Developmental rights or Floor Space Index (FSI) [including additional FSI] for construction of a project by a promoter.</td> <td data-bbox="810 968 1055 1306">Any person</td> <td data-bbox="1055 968 1365 1306">Promoter</td> </tr> <tr> <td data-bbox="505 1306 810 1824">Long term lease of land (30 years or more) against consideration in the form of upfront amount (called as premium, salami, cost price, developmental charges) and/or periodic rent for construction of a project by a promoter.</td> <td data-bbox="810 1306 1055 1824">Any person</td> <td data-bbox="1055 1306 1365 1824">Promoter</td> </tr> </tbody> </table> <p>➤ This notification shall come into force on the 1st day of April, 2019.</p>	Category of supply of Service	Supplier of service	Recipient of service	Transfer of Developmental rights or Floor Space Index (FSI) [including additional FSI] for construction of a project by a promoter.	Any person	Promoter	Long term lease of land (30 years or more) against consideration in the form of upfront amount (called as premium, salami, cost price, developmental charges) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter
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<p>10.</p>	<p>06/2019- Central Tax (Rate), Dt-29-03- 2019;</p> <p>6/2019- Integrated Tax (Rate), Dt - 29-03- 2019;</p> <p>6/2019 - Union Territory Tax (Rate), Dt - 29-03- 2019</p> <p>and</p> <p>6/2019 - State Tax (Rate), Dt - 30-03-2019</p>	<p>➤ <u>Special procedures for certain processes for certain class of persons under Section 148 of CGST Act, 2017.</u></p> <p>Following classes of registered persons, namely:</p> <p>(i) A promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;</p> <p>(ii) A promoter, who receives long term lease of land on or after 1st April, 2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name),</p> <p>as the registered persons in whose case the liability to pay central tax on, -</p> <p>a) The consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);</p> <p>b) The monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relatable to construction of residential apartments in project;</p> <p>c) The upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relatable to construction of residential apartments in the project; and</p> <p>d) The supply of construction service by him against consideration in the form of development rights or FSI (including additional FSI),</p> <p>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.</p> <p>➤ This notification shall come into force on the 1st day of April, 2019.</p>
<p>11.</p>	<p>07/2019- Central Tax (Rate), Dt-29-03- 2019;</p>	<p>➤ <u>Services to be taxed under RCM for real estate sector.</u></p> <p>Following category of Supply of goods and services received from an unregistered supplier shall be taxable on reverse charge basis for Recipient.</p>

	<p>7/2019-Integrated Tax (Rate), Dt - 29-03-2019;</p> <p>7/2019 - Union Territory Tax (Rate), Dt - 29-03-2019</p> <p>and</p> <p>7/2019 - State Tax (Rate), Dt - 30-03-2019</p>	<table border="1"> <thead> <tr> <th data-bbox="493 107 1013 222">Category of supply of goods & services</th> <th data-bbox="1013 107 1459 222">Recipient of goods and services</th> </tr> </thead> <tbody> <tr> <td data-bbox="493 222 1013 856">Supply of such goods and services or both [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier).</td> <td data-bbox="1013 222 1459 856">Promoter</td> </tr> <tr> <td data-bbox="493 856 1013 1234">Cement which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier).</td> <td data-bbox="1013 856 1459 1234">Promoter</td> </tr> <tr> <td data-bbox="493 1234 1013 1381">Capital goods supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed.</td> <td data-bbox="1013 1234 1459 1381">Promoter</td> </tr> </tbody> </table>	Category of supply of goods & services	Recipient of goods and services	Supply of such goods and services or both [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier).	Promoter	Cement which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier).	Promoter	Capital goods supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed.	Promoter	
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12.	<p>08/2019-Central Tax (Rate), Dt-29-03-2019;</p> <p>08/2019-State Tax (Rate),</p>	<p>➤ <u>CGST Rate for certain goods and services for Real Estate sector.</u></p> <p>Supply of any goods other than capital goods and cement as specified in Customs Tariff Act 1975 (Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers), by an unregistered person to a promoter for construction of the project on which tax is payable by the promoter as recipient of goods at the rate as specified in Schedule III @ 18% IGST OR 9% CGST and 9% SGST / UTGST.</p> <p>➤ This notification shall come into force on the 1st day of April, 2019.</p>									

	<p>Dt-30-03-2019;</p> <p>08/2019-Integrated Tax (Rate), Dt-29-03-2019</p> <p>and</p> <p>08/2019-Union Territory Tax (Rate), Dt-29-03-2019</p>	
<p>13.</p>	<p>09/2019-Central Tax (Rate), Dt-29-03-2019;</p> <p>09/2019-Union Territory Tax (Rate), Dt-29-03-2019</p> <p>and</p> <p>9/2019 - State Tax (Rate), Dt-30-03-2019</p>	<p>➤ <u>Composition Rules to specified persons.</u></p> <p>Composition rules under Section 10 of CGST Rules, 2017 will be applicable for Supplier of services opting for composition scheme with a tax rate of 6 % having annual turnover in preceding year up to Rs. 50 lakhs.</p> <p>If the said person has availed any ITC and opts to pay tax under this notification, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods and after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.</p> <p>➤ This notification shall come into force on the 1st day of April, 2019.</p>
<p align="center">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

Rule No.	Description	CGST Rules, 2017	CGST (Amendment) Rules, 2019
41(1)	Transfer of Credit on Sale, Merger, Amalgamation, Lease or Transfer of a Business.	Sub rule(1) specifies that in case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units.	After the said sub rule (1), following explanation shall be inserted: It is hereby clarified that the “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.
42(1)(f)	ITC attributable to inputs and input services used exclusively for supplies other than exempted but includes zero rated supplies.	In schedule II of CGST Act ,construction of a complex, building , civil structure or a part thereof intended for sale to a buyer shall be considered as supply of service.	For the said supply in schedule II, following explanation is to be inserted: T4 shall be zero during the construction phase because inputs and input services will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.”
42(1)(g)	Declaration of T1,T2,T3 and T4 by a registered person at invoice level.	As per the said rule, such declaration is made in FORM GSTR-2.	As per the amendment in the said rule, such declaration is required to be made in FORM GSTR-2 and at summary level in FORM GSTR-3B.
42(1)(h)	Calculation of Common Credit (C2).	ITC left after attribution of credit under clause (g) shall be called common credit, be denoted as ‘C2’ and calculated as $C2=C1-T4$ [Clause (g): ‘T1’, ‘T2’, ‘T3’ and ‘T4’ shall be determined and declared by the registered	ITC left after attribution of credit under clause (f) shall be called common credit, be denoted as ‘C2’ and calculated as $C2=C1-T4$ [Clause (f): The amount of ITC attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted

		person at the invoice level in FORM GSTR-2.]	but including zero rated supplies, be denoted as 'T4'.]
42(1)(i)	Calculation of exempt supply in case of construction business	The amount of ITC attributable towards exempt supplies is calculated as – E/F Where “E” is the aggregate value of exempt supplies during the tax period, and “F” is the total turnover in the State of the registered person during the tax period	The amount of ITC attributable towards exempt supplies is calculated as – E/F Where “E”= aggregate carpet area of the apartments, construction of which is exempt from tax, plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier. F= aggregate carpet area of the apartments in the project
42(1)(l)	Calculation of 'Common Credit' for claiming ITC	Clause (l) specifies that the amount 'C3' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.	The said clause shall be substituted as: The amount 'C3', 'D1' and 'D2' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B or through FORM GST DRC-03.
42(1)(m)	Calculation of ITC in case of exempt and non-taxable supplies.	Clause (m) specifies that the amount equal to aggregate of 'D1' and 'D2' shall be added to the output tax liability of the registered person.	In the said clause, it shall be substituted as the amount equal to aggregate of 'D1' and 'D2' shall be reversed by the registered person in FORM GSTR 3B or through FORM GST DRC-03.
42(2)	Manner of determination of ITC in respect of inputs or input	The input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before the due date for furnishing of	In the said sub-rule the words input tax credit are substituted as follows:

	services and reversal thereof.	the return for the month of September following the end of the financial year to which such credit relates, in the manner specified in the said sub-rule.	“Except in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the Act, the input tax credit”.
42(2)(a)	Manner of determination of ITC in respect of inputs or input services and reversal thereof.	Where the aggregate of the amounts calculated finally in respect of ‘D1’ and ‘D2’ exceeds the aggregate of the amounts determined under sub-rule (1) in respect of ‘D1’ and ‘D2’, such excess shall be added to the output tax liability of the registered person	In the clause (a) of sub-rule (2), for the words “added to the output tax liability of the registered person”, the words, letters and figures “reversed by the registered person in FORM GSTR-3B or through FORM GST DRC-03” shall be substituted
42(3)	Manner of determination of ITC in respect of inputs or input services for construction services (mentioned in para 5 of clause b of Schedule II)	-	The ITC determined under sub-rule (1) shall be calculated finally, for each ongoing project or project which commences on or after 1st April, 2019, which did not undergo or did not require transition of input tax credit consequent to change of rates of tax on 1st April, 2019 in accordance with notification No. 11/2017- Central Tax (Rate), with the modification that value of E/F shall be calculated taking value of E and F as under: E= aggregate carpet area of the apartments, construction of which is exempt from tax, plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but which have not been booked till the date of CC or OC whichever is earlier: F= aggregate carpet area of the apartments in the project
42(4)	Manner of determination of	-	The ITC determined under sub-rule (1) shall be calculated

	ITC in respect of inputs or input services for construction services (mentioned in para 5 of clause b of Schedule II)		<p>finally, for commercial portion in each project, other than residential real estate project (RREP), which underwent transition of input tax credit consequent to change of rates of tax on the 1st April, 2019 in accordance with notification No. 11/2017-Central Tax (Rate).</p> <p>Final eligible common credit = aggregate common credit on commercial portion * E/F</p> <p>Where E = total carpet area of commercial apartments which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier.</p> <p>F = total carpet area of the commercial apartments in the project.</p>
42(5)	Manner of determination of ITC in respect of inputs or input services for construction services (mentioned in para 5 of clause b of Schedule II)	-	Input tax determined under sub-rule (1) shall not be required to be calculated finally on completion or first occupation of an RREP which underwent transition of input tax credit consequent to change of rates of tax on 1st April, 2019 in accordance with notification No. 11/2017- Central Tax (Rate).
42(6)	Manner of determination of ITC in respect of inputs or input services for construction services (mentioned in para 5 of clause b of Schedule II)	-	Where any input or input service are used for more than one project, ITC with respect to such input or input service shall be assigned to each project on a reasonable basis and credit reversal pertaining to each project shall be carried out as per sub-rule (3).

43(1)(a)	ITC Credit in respect of Capital Goods.	The amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in FORM GSTR-2 and shall not be credited to his electronic credit ledger.	The amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in FORM GSTR-2 and FORM GSTR 3B and shall not be credited to his electronic credit ledger.
43(1)(b)	ITC Credit in respect of Capital Goods	The amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero-rated supplies shall be indicated in FORM GSTR-2 and shall be credited to the electronic credit ledger.	The amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero-rated supplies shall be indicated in FORM GSTR-2 and FORM GSTR 3B and shall be credited to the electronic credit ledger.
43(1)(g)	Calculation of common credit attributable towards exempt supplies	It will be calculated as $(E/F) * T$ where 'F' is the total turnover of the registered person during the tax period	It will be calculated as $(E/F) * T$ where 'F' is the total turnover in the State of the registered person during the tax period
43(1)(i)	Calculation of common credit attributable towards exempt supplies	-	The amount of credit towards exempt supplies shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B.
43 (2)	Calculation of common credit attributable towards exempt supplies	-	In case of construction services, the amount of common credit attributable towards exempted supplies shall be calculated finally for the entire period from the commencement of the project or 1st July, 2017, whichever is later, to the

			<p>completion or first occupation of the project, whichever is earlier, for each project separately as under :</p> $T_e = [(E_1 + E_2 + E_3) / F] \times T_c$ <p>Where,-</p> <p>E1= aggregate carpet area of the apartments, construction of which is exempt from tax</p> <p>E2= aggregate carpet area of the apartments, supply of which is partly exempt and partly taxable, consequent to change of rates of tax on 1st April, 2019</p> <p>E3 = aggregate carpet area of the apartments, construction of which is not exempt from tax, but have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier:</p> <p>F= aggregate carpet area of the apartments in the project;</p> <p>Tc = aggregate of A_{final} in respect of all capital goods used in the project</p>
43 (3)	Calculation of common credit attributable towards exempt supplies	-	The amount T_e and T_c shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.
43 (4)	Calculation of common credit attributable towards exempt supplies	-	Where any capital goods are used for more than one project, ITC with respect to such capital goods shall be assigned to each project on a reasonable basis and credit reversal pertaining to each

			project shall be carried out as per sub-rule (2).
43 (5)	Calculation of common credit attributable towards exempt supplies	-	Where any capital goods used for the project have their useful life remaining on the completion of the project, input tax credit attributable to the remaining life shall be availed in the project in which the capital goods is further used.
88A	Order of utilization of input tax credit.	-	<p>ITC on account of integrated tax shall first be utilized 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.</p> <p>Provided that the ITC on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the ITC available on account of integrated tax has first been utilised fully.</p>
100	Assessment in certain cases	-	<p>The order of assessment made under section 62 (1) shall be issued in FORM GST ASMT-13 and a summary thereof shall be uploaded electronically in FORM GST DRC-07.</p> <p>The proper officer shall issue a notice to a taxable person in accordance with the provisions of section 63 in FORM GST ASMT-14 containing the grounds on which the assessment is proposed to be made on best judgment basis and shall also serve a summary</p>

			<p>thereof electronically in FORM GST DRC-01, and after allowing a time of fifteen days to such person to furnish his reply, if any, pass an order in FORM GST ASMT-15 and summary thereof shall be uploaded electronically in FORM GST DRC-07.</p> <p>The order of assessment under of section 64(1) shall be issued in FORM GST ASMT-16 and a summary of the order shall be uploaded electronically in FORM GST DRC-07</p> <p>The person referred to in section 64(2) may file an application for withdrawal of the assessment order in FORM GST ASMT-17</p> <p>The order of withdrawal or, as the case may be, rejection of the application under section 64 (2) shall be issued in FORM GST ASMT-18.</p>
142	Notice and order for demand of amounts payable under the Act	-	<p>The proper officer shall serve:</p> <p>a) summary of notice thereof electronically in FORM GST DRC-01</p> <p>b) summary of statement under 73(3) and 74 (3) electronically in FORM GST DRC-02 specifying the details therein.</p> <p>Where the person chargeable with tax makes payment of tax and interest before service of notice, he shall inform the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an acknowledgement, accepting</p>

			<p>the payment made by the said person in FORM GST DRC-04.</p> <p>Where the person chargeable with tax makes payment of tax and interest within 14 days of detention or seizure of goods and conveyance, he shall inform the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in FORM GST DRC-05.</p> <p>The representation referred to in section 73(9) section 74(9) or section 76(3) or the reply to any notice issued under any section whose summary has been uploaded electronically in FORM GST DRC-01 under sub-rule (1) shall be furnished in FORM GST DRC-06.</p> <p>A summary of order issued under section 52, 62, 63, 64, 73, 74, 75, 76, 122, 123, 124, 125, 127, 129, 130 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.</p> <p>Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in FORM GST DRC-08.</p>
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The following forms are Inserted / amended-

Sr.No.	Name of the Form	Purpose of the Form
1.	FORM GST DRC - 01	Summary of Show Cause Notice
2.	FORM GST DRC -02	Summary of Statement
3.	FORM GST DRC-07	Summary of the order
4.	FORM GST DRC-08	Summary of Rectification/Withdrawal Order
5.	FORM GST ASMT-13	Assessment order under section 62
6.	FORM GST ASMT-15	Assessment order under section 63
7.	FORM GST ASMT-16	Assessment order under section 64
8.	FORM GST CPD-02	Order for rejection / allowance of compounding of offence

SIGNIFICANT CIRCULARS AND ORDERS

Sr. No.	Circular/ Order No.	Key Update
1.	92/11/2019- Central Tax, Dt- 07-03-2019	<p><u>Clarification of various doubts related to treatment of sales promotion scheme under GST</u></p> <p>➤ Free Samples and Gifts As per Section 7 of the CGST Act 2017, supply is made or agreed to be made for a consideration. Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST (except in case of activities mentioned in Schedule I of the said Act).</p> <p>As per Section 17(5) of the said Act, ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that ITC shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration (except in case of activities mentioned in Schedule I of the said Act).</p> <p>➤ Buy one get one free offer It is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods or the price of one.</p> <p>Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.</p> <p>It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.</p> <p>➤ Discounts including ‘Buy more, save more’ offers Some suppliers offer staggered discounts (increase in discount rate with increase in purchase volume) and periodic/year ending discounts to their stockists. They are also referred to as “volume discounts”. Such discounts are passed on by the supplier through credit notes.</p> <p>It is clarified that discounts offered by the suppliers to customers (including staggered discount under “Buy more, save more” scheme and post supply / volume discounts established</p>

		<p>before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy sub-section (3) of section 15 (“Value of Supply”) of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of documents issued by the supplier.</p> <p>It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.</p> <p>➤ Secondary Discounts</p> <p>These are the discounts which are not known at the time of supply or are offered after the supply is already over. The provisions of sub-section (1) of section 34 of the said Act provides as under: “Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.”</p> <p>It is clarified that financial/commercial credit notes can be issued by the supplier even if conditions of Section 15(3)(b) are not satisfied. It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.</p>
2.	93/11/2019- Central Tax, Dt- 08-03-2019	<p>➤ <u>Clarifies nature of supply of Priority Sector Lending Certificates (PSLC)</u></p> <p>It is clarified that nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI for both periods i.e 01.07.2017 to 27.05.2018 (by seller bank on forward charge basis) and from 28.05.2018 onwards (by buyer bank on reverse charge basis). However, where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST as the case may be, such banks for payment already made, shall not be required to pay IGST towards such supply.</p>

3. 94/11/2019-
Central Tax,
Dt- 28-03-2019

➤ **Clarifications on refund related issues under GST**

Sl. No.	Issue	Clarification
1	Registered persons who have attempted to claim refund of accumulated ITC on account of inverted tax structure for the same period in which the ITC required to be lapsed are not able to claim refund of accumulated ITC to the extent to which they are so eligible. This is because of a validation check on the common portal which prevents the value of ITC in Statement 1A of FORM GST RFD-01A from being higher than the amount of ITC availed in FORM GSTR-3B of the relevant period minus the value of ITC reversed in the same period.	<p>As a one-time measure to resolve the issue, refund of accumulated ITC on account of inverted tax structure, for the period in which there is reversal of the ITC required to be lapsed, 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 RFD-01A.</p> <p>If the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through FORM GST DRC-</p>

				<p>03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05.</p>
			<p>2 What about registered persons who are yet to perform this reversal?</p>	<p>It is clarified that all the registered persons who are required to perform this reversal and have not done so yet, may reverse the said amount through FORM GST DRC-03 instead of FORM GSTR-3B.</p>
			<p>3 What shall be the consequence if any registered person reverses the amount of credit to be lapsed, in terms the said notification, 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?</p>	<p>He shall be liable to pay interest under sub-section (1) of section 50 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 for the month of August, 2018 till the date of reversal of said amount through FORM GSTR-3B or</p>

				<p>through FORM GST DRC-03, as the case may be.</p> <p>However, he would remain eligible to claim refund of unutilized ITC on account of accumulation due to inverted tax structure w.e.f. 01.08.2018.</p> <p>However, refund shall be granted only after reversal of amount of credit to be lapsed, either through FORM GSTR-3B or FORM GST DRC-03, along with payment of interest, as applicable.</p>
			<p>4 How should a merchant exporter claim refund of ITC availed on supplies received on which the supplier has availed the benefit of Notification no 40/2017 – Central Tax (Rate) dated 23rd October 2017 (5% rate for intra state supply to registered exporters)?</p>	<p>Rule 89(4B) of the CGST Rules provides that where the person claiming refund of unutilized ITC on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of the said notifications, the refund of input</p>

				<p>tax credit, availed in respect of such inputs received under the said notifications for export of goods, shall be granted. The procedure for claiming refund is same as mentioned above.</p>
		5	<p>The common portal does not allow a taxpayer to file a fresh application for refund for the same period after issuance of a deficiency memo. It was subsequently clarified that no re-credit should be carried out in such cases and taxpayers should file the rectified application, after issuance of the deficiency memo, under the earlier ARN only.</p>	<p>In such cases, the claimant may re-submit the refund application manually in FORM GST RFD-01A after correction of deficiencies pointed out in the deficiency memo, using the same ARN. The proper officer shall then proceed to process the refund application as per the existing guidelines.</p>
4.	95/11/2019-Central Tax, Dt- 28-03-2019	➤	<p><u>Clarifications in respect of verification for grant of new registration</u></p> <p>Sub-section (10) of section 25 of the CGST Act read with rule 9 of the CGST Rules provide for rejection of application for registration if the information or documents submitted by the applicant are found to be deficient. It is clarified that not applying for revocation of cancellation of registration along with the continuance of the conditions specified in clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act shall be deemed to be a “deficiency” within the meaning of sub-rule (2) of rule 9 of the CGST Rules.</p>	

		<p>The proper officer may compare the information pertaining to earlier registrations with the information contained in the present application, the grounds on which the earlier registrations were cancelled and the current status of the statutory violations for which the earlier registrations were cancelled.</p> <p>If proper officer finds that application for revocation of cancellation of registration has not been filed and the conditions specified in clauses (b) and (c) section 29 (2) of the CGST Act are still continuing, then, the same may be considered as a ground for rejection of application for registration in terms of rule 9(2) or Rule 9(4) of CGST Rules. Therefore, it is advised that where the applicant fails to furnish sufficient convincing justification or the proper officer is not satisfied with the clarification, information or documents furnished, then, his application for fresh registration may be considered for rejection.</p>
5.	96/11/2019- Central Tax, Dt- 28-03-2019	<p>➤ <u>Clarification in respect of transfer of input tax credit in case of death of sole proprietor</u></p> <p>As per rule 41 (1) of CGST Rules, the registered person (transferor of business) can file FORM GST ITC-02 electronically on the common portal along with a request for transfer of unutilized ITC lying in his electronic credit ledger to the transferee. Clarification has been sought regarding procedure of filing of FORM GST ITC-02 in case of death of the sole proprietor.</p> <p>In case of death of sole proprietor if the business is continued by any person being transferee or successor, the ITC which remains un-utilized in the electronic credit ledger is allowed to be transferred to the transferee as per provisions and in the manner stated below –</p> <ul style="list-style-type: none"> • 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. While filing application in FORM GST REG-01 electronically in the common portal the 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. In FORM GST REG-16, reason for cancellation is required to be mentioned as “death of sole proprietor”. The GSTIN of transferee to whom the

		<p>business has been transferred is also required to be mentioned to link the GSTIN of the transferor with the GSTIN of transferee.</p> <ul style="list-style-type: none"> Transfer of ITC and liability: Section 93 (1) of the CGST Act provides that where a person, liable to pay tax, interest or penalty under the CGST Act, dies, then the person who continues business after his death, shall be liable to pay tax, interest or penalty due from such person under this Act. It is therefore clarified that the transferee/successor shall be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business due to death of sole proprietor. <p>Further Section 18 (3) of the CGST Act, allows the registered person to transfer the unutilized ITC lying in his electronic credit ledger to the transferee.</p> <ul style="list-style-type: none"> Manner of transfer of credit: In case of transfer of business on account of death of sole proprietor, the transferee / successor shall file FORM GST ITC-02 in respect of the registration which is required to be cancelled on account of death of the sole proprietor. FORM GST ITC-02 is required to be filed by the transferee/successor before filing the application for cancellation of such registration. Upon acceptance by the transferee / successor, the un-utilized input tax credit specified in FORM GST ITC-02 shall be credited to his electronic credit ledger.
6.	<p>3/2019-Central Tax, Dt- 08 -03-2019;</p> <p>3/2019-Union Territory Tax, Dt- 08 -03-2019</p> <p>and</p> <p>3/2019 - State Tax, Dt - 08-03-2019</p>	<p>➤ <u>Remove difficulty in implementation of Notification No. 2/2019- Central Tax (Rate)</u></p> <p>It is hereby clarified that provisions of section 31(3)(c) of the Act (issue of bill of supply instead of tax invoice) shall apply to a person paying tax under Notification No. 2/2019- Central Tax (Rate) dated 07.03.2019 (Applicable for Composition Scheme).</p>
7.	<p>4/2019-Central Tax, Dt- 29 -03-2019;</p> <p>4/2019-Union Territory Tax,</p>	<p>➤ <u>Remove difficulty in case of supply of services covered by paragraph 5 of Schedule II (b)of the CGST Act, 2017</u></p> <p>It is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, the amount of credit attributable to the taxable supplies including zero rated supplies and exempt supplies shall be determined on the</p>

	<p>Dt- 29 -03-2019</p> <p>and</p> <p>4/2019 - State Tax, Dt - 30-03-2019</p>	<p>basis of the area of the construction of the complex, building, civil structure or a part thereof, which is taxable and the area which is exempt.</p> <p>➤ This Order shall come into force with effect from the 1st day of April, 2019.</p>
<p align="center">For detailed Notifications kindly follow below link- http://www.cbic.gov.in/hdocs-cbec/gst/central-tax-notfns-2017</p>		

1. Auto calculation of route distance based on PIN code for generation of EWB:

Now, E-waybill system is being enabled to auto calculate the route distance for movement of goods, based on the Postal PIN codes of source and destination locations. That is, the e-waybill system will calculate and display the actual distance between the supplier and recipient addresses. User is allowed to enter the actual distance as per his movement of goods. However, it will be limited to 10% more than the displayed distance for entry. That is, if the system has displayed the distance between Place A and B, based on the PIN codes, as 655 KMs, then the user can enter the actual distance up to 720KMs (655KMs + 65KMs). In case, the source PIN and destination PIN are same, the user can enter up to a maximum of 100KMs only. If the PIN entered is incorrect, the system would alert the user as INVALID PIN CODE. However, he can continue entering the distance. Further, these e-waybills having INVALID PIN codes are flagged for review by the department.

Route distance calculation between source and destination uses the data from various electronic sources. This data employs various attributes, for example: road class, direction of travel, average speed, traffic data etc. These attributes are picked up from traffic that is on National highways, state highways, expressways, district highways as well as main roads inside the cities. A proprietary logic is then used for approximating the distance between two postal pin codes. The distance thus derived is then provided as the motor able distance at that point of time.

2. Blocking of generation of multiple E-Way Bills on one Invoice/document

Based on the representation received by the transporters, the government has decided not to allow generation of multiple e-way bills based on one invoice, by any party – consignor, consignee and transporter. That is, once E-way Bill is generated with an invoice number, then none of the parties - consignor, consignee or transporter - can generate the E-Way Bill with the same invoice number. **One Invoice, One E-way Bill policy** is followed. The change will come in the next version.

3. Extension of E-Way Bill in case Consignment is in Transit

The transporters had represented to incorporate the provision to extend the E-way Bill, when the goods are in transit. The transit means the goods could be on Road or in Warehouse. This facility is being incorporated in the next version for the extension of E-way Bill.

During the extension of the e-way bill, the user is prompted to answer whether the Consignment is in Transit or in Movement. On selection of **In Transit**, the address details of the transit place need to be provided. On selection of **In Movement** the system will prompt the user to enter the Place and Vehicle details from where the extension is required. In both these scenarios, the destination PIN will be considered from the PART-A of the E-way Bill for calculation of distance for movement and validity date. Route distance will be calculated as explained above.

4. Blocking of Interstate Transactions for Composition dealers

As per the GST Act, the composition tax payers are not supposed to do Interstate transactions. Hence next version will not allow generation of e-way bill for inter-state movement, if the supplier is composition tax payer. Also, the supplies of composition tax payers will not be allowed to enter any of the taxes under CGST or SGST for intrastate transactions. In case of Composition tax payer, document type of Tax Invoice will not be enabled.

RECENT CASE LAWS

1. Computers, laptops etc. used by applicant during transition period, ineligible to claim input tax credit under VAT laws would not qualify as inputs for purpose of availing transitional ITC under section 140(2)

Applicant	Geojith Financial Services Ltd.
Journal of Publication	KER/13/2018
Date of Ruling	19 th September, 2018
Ruling Authority	AAR Kerala

FACTS
<ul style="list-style-type: none"> The applicant is engaged in providing various retail financial services like stock broking, share broking, marketing of initial public offering of companies and mutual funds, corporate advisory services etc. which were not taxable under VAT Law.
ISSUE
<ul style="list-style-type: none"> Based on the transitional provisions, they have claimed input tax credit on closing stock of computers, laptops and other goods lying in the physical possession of the applicant as on 30-6-2017. In the circumstances advance ruling is sought for on the following: <ul style="list-style-type: none"> ➤ Whether computers, laptops etc. used by the applicant for providing output service would qualify as inputs for the purpose of availing transitional ITC under section 140(3) of Kerala State Goods and Services Tax (KSGST) Act? ➤ If the goods are physically available as closing stock as on 30-6-2017, can the applicant avail ITC for the VAT paid?
HELD
<ul style="list-style-type: none"> The applicant being a service provider, is not eligible to avail input tax credit on computers and laptops held during transition period. The proviso to sub-section (2) of section 140, is specific to the point that input tax credit not admissible as under the existing law is ineligible to claim input tax credit under GST Act. Section 140(2) covers transitional credit claim on capital goods by a dealer registered in earlier law. Section 140(3) covers 'credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day', hence, the transitional credit claim of the assessee in respect of capital goods is not acceptable.

- In view of the observations, the following rulings are issued:
 - The computers, laptops etc. used by the applicant for providing output service would not qualify as inputs for the purpose of availing transitional ITC under section 140(2)/140(3) of the KSGST Act.
 - The goods, even though physically available as closing stock as on 30-6-2017, ITC is not eligible for the VAT paid.

2. [Input tax credit is admissible on inward supplies for construction of said warehouse - Whether warehouse being constructed is an immovable property](#)

Applicant	Tewari Warehousing Co. (P.) Ltd.
Journal of Publication	40/WBAAR/2018-19
Date of Ruling	18 th February 2019
Ruling Authority	AAR West Bengal

FACTS
<ul style="list-style-type: none"> The applicant is engaged in supplying warehousing services. It is constructing a warehouse on leasehold land using pre-fabricated technology.
ISSUE
<ul style="list-style-type: none"> Whether the input tax credit is admissible on the inward supplies for construction of the said warehouse.
HELD
<ul style="list-style-type: none"> The essential character of 'immovable property' is that it is attached to the earth, or permanently fastened to anything attached to the earth, or forming part of the land and not agreed to be severed before supply or under a contract of supply. In the instant case, the applicant is constructing the warehouse on a piece of land taken on lease from Kolkata Port Trust for a period of thirty years for the purpose of building a storage facility. The intention, therefore, is beneficial enjoyment for more than two decades of the property being built. Unless the business is wound up, the applicant, after the expiry of the lease, can approach Kolkata Port Trust for granting a fresh lease. The structure being built is, therefore, not for the purpose of temporary enjoyment, but intended to be used as a permanent structure subject to usual business uncertainties. The concerned officer from the revenue has also pointed out correctly that the system refers only to the pre-fabricated structures that are used for constructing the warehouse and not to the warehouse itself. The core issue in the context of the application is not the beneficial enjoyment of the system, but of the property of the warehouse being built. Being a storage facility, a warehouse is associated with the space available, whereas the system refers to the materials and structures used for turning the space into a covered storage facility. It, therefore, appears that the vendor is not supplying the floor as a pre-fabricated removable structure. The civil work undertaken is meant not only for fixing the pre-fabricated structure built upon the floor but also for developing the floor space itself. Beneficial enjoyment of the floor so inalienably attached to the land is integral to the enjoyment of the warehouse. In the light of the above discussion, it is concluded that the applicant is constructing a warehouse that is intended to be used as a permanent structure and associated with beneficial enjoyment of the land on which it is being built. The technology used for the

construction of the warehouse involves the application of pre-fabricated structures and also civil work for supporting the pre-fabricated structure and developing the floor of the warehouse. The warehouse cannot be conceived without beneficial enjoyment of the civil structure embedded on earth.

- The warehouse being constructed is, therefore, an immovable property and the input tax credit is not admissible on the inward supplies for its construction, as the credit of such tax is blocked under section 17(5)(d).

3. [As per provisions of section 16 of the CGST Act, 2017, applicant can avail Input Tax Credit only to extent of invoice value raised by suppliers less discounts as per C2FO software which is paid by him to suppliers](#)

Applicant	M/s MRF Limited
Journal of Publication	TN/05/AAR/2019
Date of Ruling	22 nd January, 2019
Ruling Authority	AAR Tamil Nadu

FACTS
<ul style="list-style-type: none"> • Post-invoice discount is offered by the supplier in the C2FO platform, the Applicant intends to use and this discount is not captured in PO. The Applicant submits that the proportionate Input Tax Credit attributable to such discount is not required to be reversed. • The C2FO platform is a marketplace model where both the Applicant/recipient and his suppliers are registered but the discounts offered are not mentioned in the supply contract between the applicant and his suppliers at the time of raising invoices or before, though the discounts are specifically linking the relevant invoices.
ISSUE
<ul style="list-style-type: none"> • Whether full ITC can be claimed or proportionate ITC pertaining to discount needs to be reversed.
HELD
<ul style="list-style-type: none"> • The following contentions were made by the assessee: <ul style="list-style-type: none"> ➤ Post invoice discount is offered on an optional basis, hence not covered in the contract between supplier and company. ➤ There is no requirement to reverse ITC by the recipient attributable to the amount of discount so allowed for the reason that such discount is not considered by the supply for payment of GST. ➤ GST is paid by the supplier on the entire price of the goods without considering the discount. • The following contentions were made by the department: <ul style="list-style-type: none"> ➤ As per Section 16 of CGST Act, where a recipient fails to pay to the supplier of goods or services or both, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon. ➤ Since amount is not paid as per the value of supply and the recipient has availed full ITC, the same would be added to his output tax liability.

- The Applicant can avail Input Tax Credit only to the extent of the invoice value less the discounts as per C2FO software. If he has availed input tax credit on the full amount, he should reverse the difference amount equal to the discount, to avoid adding to his output liability.
- Hence it was concluded that, the Applicant can avail Input Tax Credit only to the extent of the invoice value raised by the suppliers less the discounts as per C2FO software which is paid by him to the suppliers.

4. Services provided to the Government and government aided higher secondary involving creation of infrastructure in schools and rendition of services including training, being a composite supply of goods and services under the ICT Project, are not covered under the scope of Entry No. 72 of Notification No. 12 of 2017-Central Tax (Rate) dated 28-6-2017.

Applicant	IL&FS Education & Technology Services Ltd
Journal of Publication	01/ODISHA-AAAR/18-19
Date of Ruling:	21 st August, 2018
Ruling Authority	AAAR ODISHA.

FACTS
<ul style="list-style-type: none"> • IL&FS Education & Technology Services Ltd received a tender to provide was for Supply, Installation, Maintenance and Commissioning of Projection system, Interactive White Board, Computer Hardware, Connected Accessories, Installation of Software and other allied accessories to Odisha Knowledge Corporation Limited (OKCL) at the insistence of Odisha Madyamik Shiksha Mission(OMSM). • The applicant was the successful bidder and was awarded the tender to execute the contract in 5 zones services for 5 years in 4000 schools. Accordingly, the applicant entered into an agreement with OKCL. After the expiry of the contract period (i.e. 5 years), the entire infrastructure (supplied and installed) was to be transferred to the School and Mass Education Department (SMED), Government of Odisha at zero transfer value.
ISSUE
<ul style="list-style-type: none"> • Whether services provided by applicant under ICT project, involving creation of infrastructure in schools and rendition of services including training, being a separate distinct entity created by Government would be entitled to benefit of exemption from GST.
HELD
<ul style="list-style-type: none"> • The following contentions were made by the Assesse: <ol style="list-style-type: none"> 1. All activities undertaken under the ICT project are naturally bundled, principal supply being that of provision of computer training. 2. The Appellant is not providing operation or maintenance services. 3. The Appellant is claiming depreciation on the IT equipment. 4. As entire infrastructure is owned by Appellant, it cannot amount to supply of services. • The following contentions were made by the department: <ul style="list-style-type: none"> ➤ Recipient of the service OKCL is a body corporate which cannot be regarded as Government. ➤ The supply undertaken by the applicant is in the nature of composite supply. It includes supply of goods and services which are not naturally bundled. Each of the components of the composite supply are distinctly identifiable both in terms of quantify and value. The service provided or to be provided is not exclusively in the nature of training programme.

- Though the source of funding for the service is the State Government and Central Government, yet, as per the contract, the payment responsibility is vested on OKCL. Therefore, the activities of the applicant by way of supply, of goods and services under the ICT project are not covered under Entry 72 of the notification No.12 of 2017 dated 28-6-2017, to be entitled to the benefit of exemption from GST.
- It was held that commercial supplies by applicant to OKCL did not constitute supply to Government but a distinct entity created by Government. Supply was a composite supply of goods and services, not naturally but artificially bundled having distinctly separate components with distinct value attributable to each component.
- Services provided by applicant would not be covered under Entry 72 of Notification No.12 of 2017 dated 28-6-2017, to be entitled to benefit of exemption from GST. The appeal to AAAR was rejected. Advance Ruling pronounced by the Odisha AAR was upheld.

5. Value of supply of services provided by applicant in housing project wherein applicant had entered into two separate agreements, viz., one for 'sale of undivided share of land' and other for 'construction' with customers would be 2/3rd of total value charged for construction service and amount charged for transfer of undivided share of land

Applicant	M/s. Kara Property Ventures LLP
Journal of Publication	01/AAR/2019
Date of Ruling	21.01.2019
Ruling Authority	AAR Tamil Nadu

FACTS
<ul style="list-style-type: none"> • The applicant company was engaged in business of construction activities. • The applicant had a residential project by the name of 'OC' comprising of 4 Basement + Stilt + 16 floors having 43 units. • It entered into a separate agreement with the customers for the sale of undivided share in the land (Land Agreement) and construction of a super- structure (Construction Agreement) on the said land.
ISSUE
<ul style="list-style-type: none"> • Determination of the value of supply of services, wherein the applicant has entered into two separate agreements, viz., one for 'sale of undivided share of land' and the other for 'Construction' with the customers.
HELD
<ul style="list-style-type: none"> • Applicant is selling to the buyer a portion of undivided share of land which the buyer can never demand partition from the combined land owner by other buyers. • Thus, it is seen that this transaction is not a sale of Land as per Schedule III. • Secondly, both the agreements (viz., one for 'sale of undivided share of land' and the other for 'construction' with the customers) are co-existent and co-terminus and shall run concurrently. • Hence, it is seen that though there are two agreements with separate consideration, it is a single supply making this transaction a supply of service as 'Construction of complex, building, civil structure or a part thereof, including a complex or a building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of the completion certificate, where required by the competent authority, or 4 after its first occupation whichever is earlier.

- Thus, the value of supply of service as notified by the Government as per section 15(5) shall be $\frac{2}{3}$ rd of the total value charged for construction service and amount charged for transfer of undivided share of land.

6. [Input Tax Credit is not applicable on gold coins distributed to customers under sales promotion scheme](#)

Applicant	M/s Biostadt India Ltd.
Journal of Publication	GST-ARA-72/2018-19/B-165
Date of Ruling:	20 th December, 2018
Ruling Authority	AAR Maharashtra

FACTS
<ul style="list-style-type: none"> The applicant is engaged in the business of developing, manufacturing and distributing crop protection chemicals and hybrid seeds and in order to achieve sales and marketing objectives, they have launched various target based on sales incentive schemes for their distributors and retailers (customers) to achieve a specified target and in turn helps the company to achieve their targets.
ISSUE
<ul style="list-style-type: none"> Whether Input Tax Credit (ITC) can be claimed on procurement of gold coins which are to be distributed to the customers at the end of scheme period for achieving the stipulated or payment criteria?
HELD
<ul style="list-style-type: none"> The subject application is in respect of a sales promotion scheme known as Kharif Gold Scheme 2018, which has been floated by them for their customers and is of two types. In the first case, their Customers who purchased certain products on or above a certain quantity would be entitled to one 10 grams Gold coin. In the second scenario, their customers who, after lifting the products from the applicant, made certain minimum payments and above would be entitled to one 8 grams Gold coin. For both the schemes gold coins will be procured from jewelers and since gold is leviable to GST at the rate of 3 percent the applicant has raised the question i.e. whether Input Tax Credit can be claimed by them on the procurement of the said Gold coins as they are inputs for them and GST levied on such purchase qualifies to be an input tax for the purpose of Section 16(1) read with Section 2(62) of the CGST. The provisions of ITC are governed by Sections 16 and 17 of the CGST Act, 2017. In order to avail ITC, two basic provisions need to be complied with, i.e. Section 16 and Section 17. As per Section 16, a taxpayer is entitled to take credit of input tax charged on any supply of goods or services to him which are used in the course or furtherance of his business. i.e. this section disallows ITC against input goods/services used for non-business purposes. Section 17 (5) of the CGST Act deals with blocked credits and begins with a non obstante clause, which means even if Section 16 (1) allows ITC, Section 17(5) shall block in respect of certain cases.

- As per Section 17(5)(h), the goods purchased and then disposed of by way of gift or free samples or sales promotion shall not be eligible for ITC.
- In view of the discussions made above, the applicant cannot claim ITC on the procurement of Gold coins which are to be distributed to the customers.

7. No input tax credit is available to recipient of goods/service if value declared by supplier in invoice/debit note is zero.

Applicant	Assistant Commissioner ,CGST & CX
Journal of Publication	05/WBAAAR/APPEAL/2018
Date of Ruling:	27 th September, 2018
Ruling Authority	AAAR West Bengal

FACTS
<ul style="list-style-type: none"> The respondent is a re-seller and importer of sunglasses, frames, lenses, contact lenses, etc. having head office in West Bengal, goods, namely, optical lenses and frames for spectacles and accessories are transferred from the head office in West Bengal to its branches in other States.
ISSUE
<ul style="list-style-type: none"> The respondent had sought an Advance Ruling on the following issues- <ul style="list-style-type: none"> ➤ Whether the transfer of goods (optical lenses and frames for spectacles and accessories) from Head Office in West Bengal to its branches in other states, could be done at cost price, by applying the second proviso to rule 28 of CGST Rules, 2017 (instead of 90 per cent of MRP as required under the First Proviso to rule 28 of CGST Rules, 2017 ➤ What is meant by the expression 'where the recipient is eligible for full input tax credit' as used in the second proviso to rule 28 of CGST Rules, 2017.
HELD
<ul style="list-style-type: none"> As per Section 16 of the GST Act, it is clear that, inter alia, input tax credit is available only when the recipient is in possession of a tax or debit note issued by the supplier registered under the GST Act, and in case of a supply between distinct and/or related persons, as between Head Office and Branches, the value declared in the invoice shall be deemed to be the open market value of the goods or services supplied. It is therefore clear that if the value declared in such invoice is zero no input tax credit is available to the recipient. The Advance Ruling Authority ruled that- <ol style="list-style-type: none"> The applicant has the option of not supplying goods to its branches under the first proviso of rule 28 and is eligible to value these goods by applying the terms of the second proviso to rule 28. The expression 'where the recipient is eligible for full input tax credit', as used in the second Proviso to rule 28 means that the recipient will be eligible to take full input tax credit of the amount of tax paid by the supplier as mentioned in the respective invoice or any other document valid under section 16(2)(a).

8. Where several individual services are offered in different combinations to recipients, depending upon their need and each of recipients is charged a consolidated amount for combination of services, such combination of services offered as a mixed supply within meaning of section 2(74).

Applicant	Sarj Educational Centre
Journal of Publication	42/WBAAR/2018-19
Date of Ruling	26 th February, 2019
Ruling Authority	AAR West Bengal

FACTS
<ul style="list-style-type: none"> • The applicant was the owner of a private boarding house and was providing services of lodging and food to the students of a secondary school, run by a charitable society. • The boarding facility included lodging, housekeeping, laundry, medical assistance and food. The consideration was a consolidated charge on the individual boarder for the combination of the services.
ISSUE
<ul style="list-style-type: none"> • Whether service to the students for lodging along with food was a composite supply within the meaning of section 2(30) • Whether supply of such service is eligible for exemption under Sl. No. 14 of Notification No. 12/2017-CT (Rate) dated 28/06/2017. • What should be the rate of tax for the combination of services he provided, if it was not considered a composite supply.
HELD
<ul style="list-style-type: none"> • The Applicant refers to Circular No. 32/06/2018 dated 12/02/2018 of CBIC. It has clarified that accommodation service to students in a hostel having declared tariff below one thousand rupee per day is exempt under Sl. No. 14 of the Exemption Notification. • The applicant provides services to both day boarders and boarders requiring lodging facilities. The boarding fees for those who enjoy lodging facilities is at certain amount per head. These lodgers have to pay an additional amount per head for housekeeping and laundry services, whereas the day boarders pay lesser amount per head for such service. • It appears from the consideration charged on the boarders who need lodging facility that such services are offered at a tariff below Rs.1000/- per unit per day. The lodging facility offered is, therefore, exempt under Sl. No. 14 of the Exemption Notification. The food served upon these recipients is taxable at 5% rate under Sl. No. 7(i) of Notification No. 11/2017-CT (Rate) dated 28/06/2017 (hereinafter the Rate Notification), as amended from time to time. Housekeeping, including maintenance, is classifiable under SAC 9987 and taxable at 18% rate under Sl No. 25(ii) of the Rate Notification. Laundry service is

classifiable under SAC 9997 and taxable at 18% rate under Sl. No. 35 of the Rate Notification.

- The bundle of services offered to the recipients, therefore, consists of both taxable and non-taxable supplies. Although the services are offered in a bundle, they are not indivisible, and different considerations are paid for different packages of such services offered to the recipients, depending upon their requirement for lodging facility. For example, laundry service is not offered to the day boarders.
- These are not, therefore, bundles of taxable supplies that are inseparable and supplied only in conjunction with one another in ordinary course of business. The services the applicant supplies are not, therefore, composite supply, as defined under Section 2(30).
- Each of the recipients, however, is charged a consolidated amount for the combination of services he wants to enjoy. The combination of services is, therefore, offered as a mixed supply within the meaning of section 2(74).
- In accordance with section 8(b) it is stated that, "a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax." Each of the combinations includes services taxable at 18% rate, which is the highest rate applicable to the services being offered vide section 8(b). Being mixed supply, value of the entire combination of services offered is taxable at 18% rate.

9. Principal supply of services shall be of services where goods & services both are supplied under AMC contracts

Applicant	M/S Cummins India Ltd.
Journal of Publication	GST-ARA-65/2018-19/B-161
Date of Ruling	19 th December, 2018
Ruling Authority	AAR Maharashtra

FACTS
<ul style="list-style-type: none">The applicant company was engaged in business of manufacturing diesel and natural gas engines which was supplied to their end customers. It also provided after sales services to its customers on account of engines supplied by them which included supply of spare parts, maintenance services, rebuilding of engines and batteries.
ISSUE
<ul style="list-style-type: none">Whether Principal supply of services shall be of services where goods & services both are supplied under AMC contracts
HELD
<ul style="list-style-type: none">The applicant executed an Annual Maintenance Contract (AMC) with end customers to provide maintenance services to its customers for a fixed charge. If in the course of providing the maintenance services, the applicant was required to utilize consumables, parts etc., and the value for such parts or consumables were recovered from the applicant under AMC.In the present facts, the AMC covers in its scope the services of maintenance and supply of parts/consumables as may be required. Mere supply of parts/consumables does not fulfill the requirement of the customer unless the same is appropriately used by the professional expert. Consequently, supply of service and parts is considered as naturally bundled and intrinsically linked with each other to effectively perform the obligations as stipulated under AMC. Given the fact that both the conditions as prescribed under Section 2(30) of CGST Act have been fulfilled, the underlying transaction constitute as a 'composite supply'.It is further submitted that once any 'supply' qualifies as 'composite supply' then in view of Section 8 of the CGST Act, the tax structure applicable thereto including determination of assessable value, classification, tax rate etc. needs to be determined with reference to the principal supply comprised thereunder.As per Sec 2(90) of CGST Act, principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.An instant application was preferred by the applicant before the Authority for advance ruling to decide the taxability of the above said transaction.

- Since the supply of maintenance service in the present case is for a single price with supply of spare parts/goods as and when required, the supply of both, goods and services are made in conjunction with each other in the ordinary course of business.
- Therefore, considering the provisions of the GST Laws we find that supply of services/goods in the present case is naturally bundled, with the supply of goods being incidental to the supply of services and therefore such contract is to be considered as a composite supply of service where the principal supply is service and the supply of goods is incidental to such supply of service.

10. Service of promotion and marketing of products of overseas client is in nature of facilitating supply of products of overseas client and is appropriately classified as an 'intermediary service'

Applicant	M/S Toshniwal Brothers (SR) (P.) Ltd
Journal of Publication	KAR/AAAR/06/2018-19
Date of Ruling	9 th January, 2019
Ruling Authority	AAAR Karnataka

FACTS
<ul style="list-style-type: none"> • The appellant is a supplier of services to overseas clients and is engaged in the business of promotion and marketing and aftersale support services. He has entered into an agreement with non-resident service recipients for providing marketing, sales promotion and certain post-sales support services. Consideration for these services would be received in convertible foreign exchange. • The said services are provided in respect of scientific instruments used in research and development/quality control primarily in fields of Nanoscience, Material Science, Bio Pharma and Polymer Sciences.
ISSUE
<ul style="list-style-type: none"> • The appellant filed an application for advance ruling in respect of the following questions: <ul style="list-style-type: none"> ➤ Whether pure and mere promotion and marketing services will be 'intermediary services' for the purposes of section 12 of the Integrated Goods and Services Tax Act, 2017 (IGST Act, 2017) for determining the place of supply of such services? ➤ If after sale support services are also provided under a composite contract, would it then be composite supply? What will be the principal supply for such contracts?
HELD
<ul style="list-style-type: none"> • In terms of the Agency Contract entered into by the appellant with Brabender GmbH & Co.KG. The appellant has been appointed as an agent to negotiate business transactions on behalf of the Principal (Brabender, Germany) with prospective customers in the assigned territory. It is the duty of the appellant as an agent to visit the customers and prospective customers and inform the Principal when he learns of any demand. • As part of negotiating business transactions on behalf of the Principal, the appellant promotes and markets the products of the Principal in India which includes advertising the details of the goods, demonstration of the products to the prospective customers, communicating with the prospective customers about the goods, informing the Principal about the queries and comments of the prospective customers and reviewing the credit rating of the prospective customers.

- Once the order is finalized between the Principal and the customer and the goods are imported by the customer, the appellant provides support services by way of installation, initial start-up of the products and demonstration of its satisfactory performance.
- The definition of 'intermediary service' under GST law has to be looked into. Section 2(13) of the IGST Act defines the term 'intermediary' as - 'a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.
- An intermediary, thus can be a broker or agent or any other person and is only a facilitator for the supply of goods or services or both. The act of arranging or facilitation gives rise to two supplies: (1) Supply between the Principal and the third party (2) Supply by the intermediary to the Principal for a commission/fee.
- When the general understanding of the term 'arranging' or 'facilitation' is applied to the instant case, it is found that the appellant does in fact 'arranges' or 'facilitates' the supply of goods by Brabender, Germany to the customers in India.
- In view of the foregoing discussions, the decision of the AAR that the service of promotion and marketing of the products of the overseas client is in the nature of facilitating the supply of the products of the overseas client and is appropriately classified as an 'intermediary service' as defined under section 2(13) of the IGST Act is upheld. Having concluded that the service supplied by the appellant is classified as an 'intermediary service' as defined under section 2(13), it automatically flows that the place of supply of such service will be in terms of section 13(8) of the IGST Act.
- Composite supply as defined in sub-section 30 of section 2 of the CGST Act, 2017 means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.
- In the instant case there is no dispute that the Agency contract in question involves two taxable supplies of services i.e. promotion and marketing service and aftersales support service. However, in order for the supply to be termed as a 'composite supply', what is required is that the supply of the said services should at least be bundled, more specifically be 'naturally bundled', and supplied in conjunction with each other.
- The appellant contended that the marketing services and the post-sales support services (installation and warranty support) are normally undertaken as a bundle of services; that their principals do not have any presence in India and the appellant is the Sole representative in the Indian territory for the contracted products; that installation and warranty support services are ancillary to the predominant Service of promotion and marketing and there is a single price for both the services.
- It is for this reason that the service recipient has earmarked only 25 per cent of the commission payable as being towards the aftersales support service since the same does not arise in every sale made to the customer. Therefore, the question of being naturally

bundled does not arise for the reason that every promotional activity with prospective customer does not result in a sale.

- Therefore, it is viewed that the aftersales support service, although rendered in a composite manner with the promotion and marketing service is not a composite supply. The price for the after sale support service is clearly identifiable and has been so stated in the contract itself.
- AAAR upheld the ruling given by AAR that, the after sale services provided are not in the nature of a composite contract and they are independent from the services of promotion and marketing and hence there is no question of determination of what will be the principal supply.