
KEY UPDATES

OCTOBER & NOVEMBER, 2018



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SIGNIFICANT NOTIFICATIONS

Sr. No	Notification No.	Key Update
1.	53/2018 - Central Tax, Dt- 09-10-2018	<p>➤ <u>Rule 96, for sub-rule (10)</u> The following sub-rule shall be substituted and shall be deemed to have been substituted with effect from the 23rd October, 2017, namely:</p> <p>The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the credit on the goods supplied.</p>
2.	54/2018 - Central Tax Dt- 09-10-2018	<p>➤ <u>In rule 89, for sub-rule (4B), the following sub-rule shall be substituted -</u></p> <p>Where the person claiming refund of unutilized input credit on account of zero rated supplies without payment of tax has-</p> <ol style="list-style-type: none"> 1. Received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance (as per notification No. 40/2017-Central Tax (rate) dt-23/10/2017) <li style="text-align: center;">or 2. Availed the benefit of Customs (as per notification no 78/2017-Customs, dt-13/10/2017) <p>The refund of ITC, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.</p> <p>➤ <u>Rule 96, for sub-rule (10) the following sub-rule shall be substituted, namely:</u></p> <p>The persons claiming refund of integrated tax paid on exports of goods or services should not have -</p> <ol style="list-style-type: none"> 1. Received supplies on which the benefit of the Government of India (as deemed Exports), except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or exempts intra state supply of taxable goods by a registered supplier to a registered recipient for export, from so

		<p>much of the central tax leviable thereon, as is in excess of the amount calculated at the rate of 0.05 % subject to fulfilment of the conditions mentioned therein in notification no. 40/2017 of Central tax (rate).</p> <p>2. Availed the benefit under Customs, except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.</p>
3.	55/2018 – Central Tax, Dt-21.10.2018	➤ The return in FORM GSTR-3B for the month of September, 2018 shall be furnished electronically through the common portal, on or before the 25th October, 2018.
4.	56/2018 – Central Tax, Dt- 23.10.2018 AND 03/2018 – Integrated Tax, Dt- 22.10.2018	<p>➤ Casual Taxable persons such as-</p> <ul style="list-style-type: none"> • Persons making Inter-state taxable supply of handicraft goods or • Persons making inter-state taxable supplies of the products as mentioned in Notification no.56/2018 of Central Tax <p>Shall be exempted from obtaining registration under the said act provided that the aggregate value of such supplies does not exceed the amount of aggregate turnover above which a supplier is liable to be registered in the State or Union territory and such persons shall obtain a Permanent Account number and generate an e-way bill in accordance with the provisions of rule 138 of the CGST Rules, 2017.</p>
5.	57/2018 – Central Tax, Dt- 23.10.2018	<p>The Central Government hereby appoints the 1st day of October, 2018, as the date on which the provisions of section 51 of the said Act shall come into force with respect to persons specified under clauses (a), (b) and (c) of section 51(1) of and the persons specified below under clause (d) of sub-section (1) of section 51 of the said Act, namely-</p> <p>a) An authority or a board or any other body, -</p> <ol style="list-style-type: none"> i. set up by an Act of Parliament or a State Legislature; or ii. established by any Government, with fifty-one per cent. or more participation by way of equity or control, to carry out any function; <p>b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);</p> <p>c) public sector undertakings.</p> <p>In the said paragraph the following proviso shall be inserted, namely- Provided that</p>

		<p>a) Department or establishment of the Central Government or State Government <i>or</i></p> <p>b) Local authority <i>or</i></p> <p>c) Governmental agencies <i>or</i></p> <p>d) Such persons or category of persons as may be notified by the Government on the recommendations of the Council,</p> <p>Shall deduct TDS but does not apply to <i>the Ministry of Defense</i>, other than the authorities specified in the Annexure-A in the respective notification and their offices, with effect from the 1st day of October, 2018.</p>
6.	58/2018 - Central Tax, Dt- 26-10-2018	<p>➤ The persons whose registration under the said Act has been cancelled by the proper officer on or before the 30th September, 2018, as the class of persons who shall furnish the final return in FORM GSTR-10 of the said rules till the 31st December, 2018.</p>
7.	59/2018 - Central Tax, Dt- 26.10.2018	<p>➤ The time limit has been extended for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during the period from July, 2017 to September, 2018 till the 31st day of December, 2018.</p>
8.	60/2018- Central Tax, Dt. 30-10-2018	<p>➤ Information regarding Examination of Goods and Services Tax Practitioners and details have been provided regarding examination, fees structure, mode of payment, No. of attempts, syllabus, etc.</p> <p>➤ <u>142A. Procedure for recovery of dues under existing laws.</u></p> <p>A summary of order issued under any of the existing laws creating demand of tax, interest, penalty, fee or any other dues which becomes recoverable consequent to proceedings launched under the existing law before, on or after the appointed day shall, unless recovered under that law, be recovered under the Act and may be uploaded in FORM GST DRC-07A electronically on the common portal for recovery under the Act and the demand of the order shall be posted in Part II of Electronic Liability Register in FORM GST PMT-01.</p> <p>➤ Where the demand of an order uploaded under sub-rule (1) is rectified or modified or quashed in any proceedings, including in appeal, review or revision, or the recovery is made under the existing laws, a summary thereof shall be uploaded on the common portal in FORM GST DRC-08A and Part II of Electronic Liability Register in FORM GST PMT-01 shall be updated accordingly.”.</p>

9.	61/2018 – Central Tax, Dt- 05.11.2018	<ul style="list-style-type: none"> ➤ The Central Government hereby appoints the 1st day of October, 2018, as the date on which the provisions of section 51 of the said Act shall come into force with respect to persons specified under clauses (a), (b) and (c) section 51(1) of the said Act and the said provision shall be inserted which is as follows- ➤ “Provided further that nothing in this notification shall apply to the supply of goods or services or both from a public sector undertaking to another public sector undertaking, whether or not a distinct person, with effect from the 1st day of October, 2018.” 												
10.	62/2018 – Central Tax, Dt- 29.11.2018	<ul style="list-style-type: none"> ➤ The return in FORM GSTR-3B of the said rules for each of the months from July, 2018 to March, 2019 shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month. <p>The following proviso shall be added to the same -</p> <table border="1" data-bbox="623 810 1414 1379" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="3" style="text-align: center;">Form GSTR3B (For Registered Persons)</th> </tr> <tr> <th style="text-align: center;">Month</th> <th style="text-align: center;">Place of Business</th> <th style="text-align: center;">Due Date of Filing</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">September & October 2018</td> <td>Srikakulam district in the State of Andhra Pradesh</td> <td style="text-align: center;">30th November, 2018</td> </tr> <tr> <td style="text-align: center;">October 2018</td> <td>Cuddalore, Thiruvarur, Puddukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram in the State of Tamil Nadu.</td> <td style="text-align: center;">20th December, 2018</td> </tr> </tbody> </table>	Form GSTR3B (For Registered Persons)			Month	Place of Business	Due Date of Filing	September & October 2018	Srikakulam district in the State of Andhra Pradesh	30th November, 2018	October 2018	Cuddalore, Thiruvarur, Puddukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram in the State of Tamil Nadu.	20th December, 2018
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11.	<p>63/2018 – Central Tax, Dt- 29.11.2018</p> <p>And</p> <p>64/2018 – Central Tax, Dt- 29.11.2018</p>	<ul style="list-style-type: none"> ➤ The time limit for furnishing FORM GSTR-1 is 11th day of the succeeding month for the months from October, 2018 to March, 2019 for registered persons having aggregate turnover of more than 1.5crore rupees in the preceding financial year or the current financial year. ➤ The following provisos has been added to the above para relating to the details of Outward Supply of Goods or Services- <table border="1" data-bbox="589 436 1450 1167" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3" style="text-align: center;">Form GSTR1 (For Registered Persons)</th> </tr> <tr> <th style="width: 25%;">Month/Quarter</th> <th style="width: 50%;">Place of Business</th> <th style="width: 25%;">Due Date of Filing</th> </tr> </thead> <tbody> <tr> <td>September & October 2018</td> <td>Srikakulam district in the State of Andhra Pradesh</td> <td>30th November, 2018</td> </tr> <tr> <td>October 2018</td> <td>Cuddalore, Thiruvarur, Pudukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram in the State of Tamil Nadu.</td> <td>20th December, 2018</td> </tr> <tr> <td>Quarter from July 2018 to September 2018</td> <td>Srikakulam district in the State of Andhra Pradesh.</td> <td>30th November, 2018</td> </tr> </tbody> </table>	Form GSTR1 (For Registered Persons)			Month/Quarter	Place of Business	Due Date of Filing	September & October 2018	Srikakulam district in the State of Andhra Pradesh	30th November, 2018	October 2018	Cuddalore, Thiruvarur, Pudukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram in the State of Tamil Nadu.	20th December, 2018	Quarter from July 2018 to September 2018	Srikakulam district in the State of Andhra Pradesh.	30th November, 2018
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12.	65/2018 – Central Tax, Dt- 29.11.2018	<ul style="list-style-type: none"> ➤ The time limit for furnishing the return in FORM GSTR-4 of the CGST Rules, 2017 for the quarter July to September, 2018 under section 39(2) of the said Act read with rule 62 of the CGST Rules, 2017 by a registered person paying tax under the provisions of section 10 of the said Act whose principal place of business is in Srikakulam district in the State of Andhra Pradesh, has been extended till 30th November, 2018. 															
13.	66/2018 – Central Tax, Dt- 29.11.2018	<ul style="list-style-type: none"> ➤ The time limit for furnishing the return by a registered person required to deduct tax at source under the provisions of section 51 of the said Act in FORM GSTR-7 of the CGST Rules, 2017 under section 39(3) of the said Act read with rule 66 of the CGST Rules, 2017 for the months of October, 2018 to December, 2018 has been extended till 31st January, 2019. 															
<p>For detailed Notifications kindly follow below link- http://www.cbic.gov.in/htdocs-cbec/gst/central-tax-notfns-2017</p>																	

SIGNIFICANT CIRCULARS AND ORDERS

Sr. No.	Circular/ Order No.	Key Update
1.	68/42/2018-GST, Dt- 05-10-2018	<p>➤ <u>Notifications issued under CGST Act, 2017 applicable to Goods and Services Tax (Compensation to States) Act, 2017:</u></p> <p>UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having being specified under section 55 of the CGST Act, 2017, are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions as prescribed as follows:</p> <p>a) United Nations or a specified international organization shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them subject to a certificate from United Nations or that specified international organization that the goods and services have been used or are intended to be used for official use of the United Nations or the specified international organization.</p> <p>b) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them subject to, -</p> <p>i. That the foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, are entitled to refund of central tax, as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity.</p> <p>ii. That in case of supply of services, the head of the foreign diplomatic mission or consular post, or any person of such mission or post authorized by him, shall furnish an undertaking in original, signed by him or the authorized person, stating that the supply of services received are for official purpose of the said foreign diplomatic mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his/her family;</p> <p>iii. That in case of supply of goods, concerned diplomatic mission or consulate or an officer duly authorized by him will produce a certificate that,-</p>

		<ul style="list-style-type: none"> I. The goods have been put to use, or are in the use, as the case may be, of the mission or consulate; II. The goods will not be supplied further or otherwise disposed of before the expiry of three years from the date of receipt of the goods; and III. In the event of non-compliance of clause (I), the diplomatic or consular mission will pay back the refund amount paid to them; iv. In case the Protocol Division of the Ministry of External Affairs, after having issued a certificate to any foreign diplomatic mission or consular post in India, decides to withdraw the same subsequently, it shall communicate the withdrawal of such certificate to the foreign diplomatic mission or consular post; v. The refund of the whole of the central tax granted to the foreign diplomatic mission or consular post in India for official purpose or for the personal use or use of their family members shall not be available from the date of withdrawal of such certificate.
2.	69/43/2018-GST, Dt. 26-10-2018	<p>➤ <u>Standard Operating Procedure for Processing of Applications for Cancellation of Registration submitted in FORM GST REG-16</u></p> <p>Clarifies the issues as detailed here under:</p> <p>Section 29 of the CGST Act with rule 20 of CGST Act, 2017 provides that a taxpayer can apply for cancellation of registration in FORM GST REG-16 in the following circumstances:-</p> <ul style="list-style-type: none"> a) Discontinuance of business or closure of business. b) Transfer of business on account of amalgamation, merger, c) De-merger, sale, lease or otherwise. d) Change in constitution of business leading to change in PAN. e) Taxable person (including those who have taken voluntary registration) is no longer liable to be registered under GST f) Death of sole proprietor. g) Any other reason (to be specified in the application) <p>➤ Rule 20 of the CGST Rules provides that the taxpayer applying for cancellation of registration shall submit the application in FORM GST REG-16 on the common portal within a period of 30 days of the occurrence of the event warranting the cancellation.</p>

		<p>The application for cancellation of registration in FORM GST REG-16, the Common portal captures the following information which has to be mandatorily filled in by the applicant:-</p> <ol style="list-style-type: none"> a) Address for future correspondence with mobile number and email address. b) Reason for cancellation. c) Date from which cancellation is sought. d) Details of the value and the input tax/tax payable on the stock of inputs, inputs contained in semi-finished goods, inputs contained in finished goods, stock of capital goods/plant and machinery. e) In case of transfer, merger of business, etc., particulars of registration of the entity in which the existing unit has been merged, amalgamated, or transferred (including the copy of the order of the High Court / transfer deed). f) Details of the last return filed by the taxpayer along with the ARN of such return filed. <p>➤ The cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation, the proper officer should accept all such applications within a period of 30 days from the date of filing the application except in the following circumstances:</p> <ol style="list-style-type: none"> a) The application in FORM GST REG-16 is incomplete, i.e. where all the relevant particulars, as detailed above have not been entered. b) In case of transfer, merger or amalgamation of business, the new entity in which the applicant proposes to amalgamate or merge has not got registered with the tax authority before submission of the application for cancellation. c) In all cases other than those listed at (a) and (b), the application for cancellation of registration should be immediately accepted by the proper officer and the order for cancellation should be issued in FORM GST REG-19 with the effective date of cancellation being the same as the date from which the applicant has sought cancellation in FORM GST REG-16. <p>In any case the effective date cannot be a date earlier to the date of application for the same.</p> <p>➤ In situations referred above the proper officer shall inform the applicant in writing about the nature of the discrepancy and give a time period of 7 working days to the taxpayer, from the date of receipt. The proper officer may approve the application for</p>
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		<p>cancellation and proceed to cancel the registration by issuing an order in FORM GST REG-19.</p> <ul style="list-style-type: none"> ➤ Section 45 of the CGST Act requires every registered person whose registration has been cancelled, to file a final return in FORM GSTR-10, within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. The purpose of final return is to ensure that the taxpayer discharges any liability that he/she may have incurred under sub-section (5) of the section 29 of the CGST Act. ➤ The last date of furnishing of FORM GSTR-10 by those taxpayers whose registration has been cancelled on or before 30.9.2018 has been extended till 31.12.2018. ➤ The taxpayer seeking cancellation of registration shall have to pay, by way of debiting either the electronic credit or cash ledger, the input tax contained in the stock of inputs, semi-finished goods, finished goods and capital goods or the output tax payable on such goods, whichever is higher. ➤ The stock of inputs, semi-finished goods, finished goods and capital goods shall be taken as on the day immediately preceding the date with effect from which the cancellation has been ordered by the proper officer i.e. the date of cancellation of registration. ➤ It is clarified that this requirement to debit the electronic credit and/or cash ledger by suitable amounts should not be a prerequisite for applying for cancellation of registration. This can also be done at the time of submission of final return in FORM GSTR-10. ➤ The requirement to reverse the balance in the electronic credit ledger is automatically met. ➤ If the output tax liability of the taxpayer as determined section 29(5) of the CGST Act is greater than the amount of input tax credit available then the difference shall be paid by him/her in cash. ➤ Section 29(3) of the CGST Act, the cancellation of registration does not in any way affect the liability of the taxpayer to pay any dues under the GST law, irrespective of whether such dues have been determined before or after the date of cancellation. ➤ Failure to file return in FORM GSTR-10 within the stipulated date the notice will be sent in FORM GSTR-3A. If the taxpayer still fails to file the final return within 15 days of the receipt of notice in FORM GSTR-3A, then an assessment order in FORM GST ASMT-13 shall have to be issued to determine the liability of the taxpayer under section 29(5) on the basis of information available with the proper officer. If the taxpayer files the final return within 30 days
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		<p>of the date of service of the order in FORM GST ASMT-13, then the said order shall be deemed to have been withdrawn. The liability for payment of interest and late fee shall continue.</p> <ul style="list-style-type: none">➤ Rule 68 of the CGST Rules requires issuance of notices to registered persons who fail to furnish returns under section 39 (FORM GSTR-1, FORM GSTR-3B and FORM GSTR-4), section 44 (Annual Return – FORM GSTR-9 / FORM GSTR-9A / FORM GSTR-9C), section 45 (Final Return – FORM GSTR-10) or section 52 (TCS Return – FORM GSTR-6).➤ It is clarified that issuance of notice would not be required for registered persons who have not made any taxable supplies during the intervening period and has furnished.➤ Section 29 of the CGST Act has been amended by the CGST (Amendment) Act, 2018 to provide for “Suspension” of registration.➤ The provisions of CGST Act, 2018 have not yet been brought into force, it will be prudent for the field formations not to issue notices for non-filing of return for taxpayers who have already filed an application for cancellation of registration under section 29 of the CGST Act. The requirement of filing a final return, as under section 45 of the CGST Act remains unchanged.➤ The information in table in FORM GST REG-19 shall be taken from the liability ledger and the difference between the amounts in Table 10 and Table 11 of FORM GST REG-16.
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<p>3.</p>	<p>70/44/2018 – GST, Dt. 26-10-18</p>	<p><u>Clarification on refund related issues of available ITC on the exports made.</u></p> <ul style="list-style-type: none"> ➤ It was clarified that the invoices relating to inputs, input services and capital goods were to be submitted for processing of claims for refund of integrated tax where services are exported with payment of integrated tax; and invoices relating to inputs and input services were to be submitted for processing of claims for refund of input tax credit where goods or services are exported without payment of integrated tax. ➤ For the difficulties being faced by the claimants of refund, it has been decided that the refund claim shall be accompanied by a print-out of FORM GSTR-2A of the claimant for the relevant period for which the refund is claimed. ➤ There may be situations in which FORM GSTR-2A may not contain the details of all the invoices relating to the input tax credit availed. In such situations, the proper officer may call for the hard copies of such invoices if he deems it necessary for the examination of the claim for refund. ➤ It is emphasized that the proper officer shall not insist on the submission of an invoice the details of which are present in FORM GSTR-2A of the relevant period submitted by the claimant. ➤ The claimant shall also submit the details of the invoices on the basis of which input tax credit had been availed during the relevant period for which the refund is being claimed, in the format enclosed as Annexure-A manually along with the application for refund claim in FORM GST RFD-01A and the Application Reference Number (ARN). ➤ The claimant shall also declare the eligibility or otherwise of the input tax credit availed against the invoices related to the claim period in the said Annexure for enabling the proper officer to determine the same. ➤ <u>System validations in calculating refund amount</u> <p>Least of the 3 given below:</p> <ol style="list-style-type: none"> 1. Consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax + Integrated tax + Cess (wherever applicable) 2. The balance in the electronic credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed.
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3. The balance in the electronic credit ledger of the claimant at the time of filing the refund application.

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

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

➤ Section 54(14) of the CGST Act provides that no refund under section 54(5) or (6) shall be paid to an applicant, if the amount is less than Rs. 1000/-

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

➤ **Scope of rule 96(10) of the CGST Rules:**

Registered persons, including importers, who are directly purchasing/importing supplies on which the **benefit of reduced tax incidence or no tax incidence** under certain specified notifications has been availed, **shall not be eligible for refund of integrated tax paid on export** of goods or services.

➤ **Status of refund claim after issuance of deficiency memo:**

Rule 90(3) of the CGST Rules provides that where any deficiencies in the application for refund are noticed, the proper officer shall communicate the deficiencies to the claimant in **FORM GST RFD-03**, requiring him to file a fresh refund application after rectification of such deficiencies.

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

It is reiterated that when a deficiency memo in **FORM GST RFD-03** is issued to taxpayers, re-credit in the electronic credit ledger

		<p>(using FORM GST RFD-01B) is not required to be carried out (as the facility for the same is not available on the portal yet) and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself.</p> <p>➤ <u>Allowing exporters who have received capital goods under Export Promotion Capital Goods (EPCG) to claim refund of IGST paid on exports:</u></p> <p>Any exporter who himself/herself imported any inputs/capital shall be eligible to claim refund of the IGST paid on exports till the date of the issuance.</p> <p>Exporters who are receiving capital goods under the Export Promotion Capital Goods Scheme, either through import or through domestic procurement, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the Rule 96(10) of the CGST Rules, 2017.</p>						
5.	71/45/2018-GST, Dt.26-10-2018	<p>➤ <u>Clarifications of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor:</u></p> <p>Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:</p> <table border="1" data-bbox="561 1115 1476 1936"> <thead> <tr> <th data-bbox="561 1115 662 1192">Sr. No</th> <th data-bbox="662 1115 1084 1192">Issue</th> <th data-bbox="1084 1115 1476 1192">Clarification</th> </tr> </thead> <tbody> <tr> <td data-bbox="561 1192 662 1936">1.</td> <td data-bbox="662 1192 1084 1936">Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?</td> <td data-bbox="1084 1192 1476 1936"> <p>a) It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 seeks information regarding the “estimated net tax liability” only and not the gross tax liability.</p> <p>b) It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might</p> </td> </tr> </tbody> </table>	Sr. No	Issue	Clarification	1.	Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<p>a) It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 seeks information regarding the “estimated net tax liability” only and not the gross tax liability.</p> <p>b) It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might</p>
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1.	Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<p>a) It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 seeks information regarding the “estimated net tax liability” only and not the gross tax liability.</p> <p>b) It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might</p>						

				be available to such taxable person.
		2.	As per section 27 of the CGST Act, 2017 period of operation by causal taxable person is 90 days with provision for extension of same by the proper officer for a further period not exceeding 90 days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.	<p>a) It is clarified that in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.</p> <p>b) While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.</p> <p>c) In such cases he would not be required to pay advance tax for the purpose of registration.</p> <p>d) He can surrender such registration once the exhibition is over.</p>
		3.	Representations have been received regarding the manner of recovery of excess credit distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in section 20 of the CGST Act.	a) According to Section 21 of the CGST Act where the ISD distributes the credit in contravention of the provisions contained in section 20 of the CGST Act resulting in excess distribution of credit to one or more recipients

			<p>of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any.</p> <p>b) The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest if any by using FORM GST DRC-03.</p> <p>c) If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s) under the provisions of section 73 or 74 of the CGST Act as the case may be. FORM GST DRC-07 can be used by the tax authorities in such cases.</p> <p>d) It is further clarified that the ISD would also be liable to a general penalty under the provisions contained in section 122(1) (ix) of the CGST Act.</p>
6.	72/46/2018-GST, Dt.26-10-2018	➤	<p><u>Circular to clarify the procedure in respect of return of time expired drugs or medicines:</u></p> <p>It is clarified that the retailer/ wholesaler can follow either of the below mentioned procedures for the return of the time expired goods:</p>

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

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

- a) In case the person returning the time expired goods is a **composition taxpayer**, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply.
- b) In case the person returning the time expired goods is an **unregistered person**, he may return the said goods by issuing any commercial document without charging any tax on the same.
- c) Where the time expired goods which have been returned by the **retailer/wholesaler are destroyed by the manufacturer**, he/she is required to reverse the ITC availed on the return supply in terms of the provisions of clause (h) of sub-section (5) of section 17 of the CGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

B. Return of time expired goods by issuing Credit Note:

- a) As Section 34 (1) of the CGST Act the supplier can issue a credit note where the goods are returned back by the recipient. Thus, *the manufacturer or the wholesaler* who has supplied the goods to the wholesaler or retailer, as the case may be, has the option to issue a credit note in relation to the time expired goods returned by the wholesaler or retailer, as the case may be. In such a scenario, **the retailer or wholesaler** may return the time expired goods by issuing a delivery challan. It may be noted that there is **no time limit** for the issuance of a credit note in the law except with regard to the adjustment of the tax liability in case of the credit notes issued prior to the month of September following the end of the financial year and those issued after it.

		<p>b) If the credit note is issued within a month in which it is issued but not later than September of the following financial year, the tax liability may be adjusted by the supplier, subject to the condition that the person returning the time expired goods has either not availed the ITC or if availed has reversed the ITC so availed against the goods being returned.</p> <p>c) However, if a month in which credit note is issued but not later than September of the following financial year has lapsed, a credit note may still be issued by the supplier for such return of goods but the tax liability cannot be adjusted by him in his hands. It may further be noted that in case time expired goods are returned beyond the time period specified above and a credit note is issued consequently, there is no requirement to declare such credit note on the common portal by the supplier (i.e. by the person who has issued the credit note) as tax liability cannot be adjusted in this case.</p>						
7.	73/47/2018-GST, Dt- 5-11-2018	<p><u>Scope of principal and agent relationship under Schedule I of CGST Act, 2017 in the context of del-credere agent</u></p> <ul style="list-style-type: none"> ➤ In commercial trade parlance, a DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. ➤ The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier ➤ Concerns have been expressed regarding the valuation of supplies from Principal to recipient where the payment for such supply is being discharged by the recipient through the loan provided by DCA or by the DCA himself ➤ Issues arising out of such loan arrangement have been examined and the clarifications on the same are as below: <table border="1" data-bbox="620 1451 1474 1938"> <thead> <tr> <th data-bbox="620 1451 716 1528">Sr. No</th> <th data-bbox="716 1451 1073 1528">Issue</th> <th data-bbox="1073 1451 1474 1528">Clarification</th> </tr> </thead> <tbody> <tr> <td data-bbox="620 1528 716 1938">1.</td> <td data-bbox="716 1528 1073 1938">Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?</td> <td data-bbox="1073 1528 1474 1938"> <p>Whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios:</p> <ul style="list-style-type: none"> • In case where the invoice for supply of goods is issued by the supplier to the </td> </tr> </tbody> </table>	Sr. No	Issue	Clarification	1.	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?	<p>Whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios:</p> <ul style="list-style-type: none"> • In case where the invoice for supply of goods is issued by the supplier to the
Sr. No	Issue	Clarification						
1.	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?	<p>Whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios:</p> <ul style="list-style-type: none"> • In case where the invoice for supply of goods is issued by the supplier to the 						

				<p>customer, either himself or through DCA, the DCA does not fall under the ambit of agent.</p> <ul style="list-style-type: none"> • In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent.
			2.	<p>Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?</p> <ul style="list-style-type: none"> • It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply. • Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier • It may be noted that vide notification No. 12/2017-Central Tax (Rate) services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card

				services) has been exempted.
		3.	Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?	<ul style="list-style-type: none"> • It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. • It is emphasized that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient. • It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per clause (d) of section 15(2) of the CGST Act.

8.	74/48/2018-GST, Dt-05.11.2018	<p>➤ <u>Collection of tax at source by Tea Board of India</u></p> <p>➤ A representation has been received from Tea Board, seeking clarification whether they should collect TCS under section 52 of the CGST Act from the sellers of tea (i.e. the tea producers), or from the auctioneers of tea or from both.</p> <p>➤ The matter has been examined. In exercise of the powers conferred under section 168(1) of the CGST Act, for the purpose of uniformity in the implementation of the Act, it is hereby clarified, that TCS at the notified rate, in terms of section 52 of the CGST Act, shall be collected by Tea Board respectively from the-</p> <p>i. Sellers (i.e. tea producers) on the net value of supply of goods i.e. tea; and</p> <p>ii. Auctioneers on the net value of supply of services (i.e. brokerage).</p>
<p style="text-align: center;">For detailed Notifications kindly follow below link- http://www.cbic.gov.in/hdocs-cbec/gst/central-tax-notfns-2017</p>		

MGST – TRADE CIRCULARS

Trade Cir. No. 33 T of 2018, dated 14.11.2018

Processing of refund under the GST

Various representations have been received seeking clarification on issues relating to refund. To clarify the issues and to ensure uniformity in the implementation of the provisions of law. Hereby, clarifies the issues hereunder:

- The Trade Circular 22T of 2018 i.e. processing the final Return under the GST was issued and the certain instructions about processing of refund under the GST Act were issued.
- Trade Circular regarding the information/data about refund i.e. Input tax credit, Turnover in GSTR-1 and GSTR-3B, etc. hereby deleted and revised the instructions with regards to the initiation of Audit is being issued separately.
- The invoices relating to inputs, input services and capital goods were to be submitted for processing of claims for refund of integrated tax where services are exported with payment of integrated tax and invoices relating to inputs and input services were to be submitted for processing of claims for refund of ITC where goods or services are **exported without payment** of integrated tax.

- The methodology and procedure of the submission of invoices for processing of claims of refund to be followed with regards to the **manual processing** of GST refund shall be **governed by Trade/Internal Circulars** issued by this office from time to time.
- The taxpayers are advised to follow the order for all refund applications. However, for applications already filed and pending with the tax authorities, where this order is not adhered to by the claimant, no adverse view may be taken by the tax authorities.
- It is clarified that the restriction under rule 96(10) of the MGST rules applies only to those purchasers/importers who are directly purchasing/importing supplies on which the benefit of certain notifications, as specified in the said sub-rule, has been availed.
- Any adjustment of the amount sanctioned as refund against any outstanding demand against the claimant can be carried out by the refund disbursing authority if not already done by the refund sanctioning authority.
- It is clarified that show-cause-notices are not required to be issued where deficiency memos have been issued. A refund application which is re-submitted after the issuance of a deficiency memo shall be to be treated as a fresh application. No order in **FORM GST RFD-04/06** can be issued in respect of an application against which a deficiency memo has been issued and which has not been resubmitted subsequently.
- The limit of rupees one thousand shall be applied for each tax head separately and not cumulatively. The limit would not apply in cases of refund of excess balance in the electronic cash ledger. All field formations are requested to reject claims of refund from the electronic credit ledger for less than one thousand rupees and re-credit such amount by issuing an order in **FORM GST RFD-01B**.

Trade Cir. No. 34 T of 2018, dated 15.11.2018

Status of Refund claimed after issuance of deficiency memo and re-credit of electronic ledger

- Trade Circular No.33T dated 14th November, 2018 clarifies the intent of law in cases where a deficiency memo is issued in respect of a refund claim.
- In the said circular it was clarified that the show cause notices are not required to be issued in cases where refund application is not re-submitted after the issuances of a deficiency memo
- It was also clarified that once a deficiency memo has been issued against an application for refund, the amount of ITC debited under rule 89(3) of MGST Rules, 2017 is required to be re-credited to the electronic credit ledger of the applicant by using **FORM GST RFD – 01B** and the taxpayer is expected to file a fresh application of refund.
- The issue has been re- examined and is clarified that till the time the facility to file a fresh application for refund once a deficiency memo has been issued against the earlier refund

application, has been developed taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only.

Allowing exporters who have received Capital goods under EPCG to claim refund of IGST paid on Exports

- Rule 96(10) of MGST, Rules 2017 restricts exporters from availing the facility of claiming refund of IGST paid on exports in certain scenarios.
- However, representations have been received requesting that exporters who have been requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme should be allowed to avail the facility of claiming refund of the IGST paid on exports.
- GST council has approved the proposal, amending the said rule 89(4B) of the MGST prospectively in order to enable such exporters to avail the same.
- For removal of doubts, it is clarified that the net effect of these changes would be that any exporter who himself/herself imported any inputs/capital goods in terms of Notification no.54/2018- State tax dated 19th October, 2018.
- Further, exporters who are importing goods in terms of Notification no.78/2017 and 79/2017 would not be eligible for refund of IGST paid on exports.
- However, exporters who are receiving capital goods under the EPCG scheme shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule.

RECENT CASE LAWS

1. Determination of liability to pay tax on services for Liaison Office

Applicant	M/S Takko Holding GmbH
Journal of Publication	4/AAR/2018
Date of Ruling:	27 th September, 2018
Ruling Authority	Authority for Advance Rulings, Tamilnadu

FACTS
<ul style="list-style-type: none"> • Takko Holding GmbH is a company incorporated in Germany and are permitted by RBI to have Liaison Office of the company. • The applicant has stated that the Holding company procures readymade garments based on designs given by them to manufacturers in Tirupur. • They do not have any financial transactions with such suppliers or sister firms around the world. The expenses of administration are paid by Germany office routed through Liaison Office by bank under intimation to RBI. • The Germany office alone identifies the Indian Supplier, there are no furtherance of business, no consideration and no supply as per GST, and there are no foreign consultants of the Liaison Office. • Further the applicant furnished documents relating to the details of order placement, procurement, quality checking activities along with documentary support; sample Invoice for order placed with the manufacturer; RBI Permission letter; Statement of Accounts & Income-Tax Returns, Inward Remittance Report and sample invoices for the expenditure, appointment letter and Payment document of any one employee, detailed write -up of activities.
ISSUE
<ul style="list-style-type: none"> • Whether Liaison Office is liable to pay GST? • Whether a Liaison Office is required to be registered under GST Act? • Whether the Activities of a Liaison Office amount to supply of Services?
HELD
<ul style="list-style-type: none"> • The liaison activities being undertaken by the applicant when strictly in line with condition specified by RBI permission letter do not amount to supply under CGST and SGST Act. • Therefore, the Applicant is not liable to pay CGST, SGST or IGST, as applicable.

2. Whether GST applicable on the differential payment received by the party from the other party to the contract

Applicant	M/s Louis Dreyfus Company India Pvt. Ltd
Journal of Publication	AAR/GST/PB/001
Date of Ruling	28 th September, 2018
Ruling Authority	Authority for Advance Rulings, Punjab

FACTS
<ul style="list-style-type: none">• M/s Louis Dreyfus Company India Pvt. Ltd. entered into forward contract for sale/purchase of cotton wherein the contract is closed by settlement without supply of goods.
ISSUE
<ul style="list-style-type: none">• To determine the applicability of GST on the differential payment received by the party from the other party to the contract is event of “Settlement”, “Washout” or “Closure” of Contract by it.
HELD
<ul style="list-style-type: none">• In forward contacts in cotton sales/purchase, being settled by M/s Louis Dreyfus Company India Pvt. Ltd with the other party to the contract by way of payment of the differential of forward rate and rate fixed by the applicant using his discretion, such rate being different than the market price of cotton on the date of settlement, the same would not be falling within the purview of “securities” as defined in section 2(101) of the CGST Act, 2017 and would therefore be chargeable to GST.• On the other hand, cotton purchase being settled by way of payment of the differential of forward rate and prevailing market rate on the settlement date, the same would be covered under the term of ‘use of money’ in the definition of services under section 2(102), and for which consideration was also being received, it was a service and liable to taxation.

3. Registration at the location from where the supplier makes taxable supplies or is supplying taxable services.

Applicant	M/s Jaimin Engineering Pvt. Ltd.
Journal of Publication	RAJ/AAR/2017-18
Date of Ruling:	1 st July, 2018
Ruling Authority	Authority for Advance Rulings, Rajasthan

FACTS
<ul style="list-style-type: none">• M/s Jaimin Engineering Pvt. Ltd. is engaged in the construction of cold storages at various parts of the country.• They are expecting to do some construction work in the state of Rajasthan whereas they are located in the state of Gujarat and registered there in GST.• They will be charging IGST on their activity in Rajasthan making it a place of supply.• The state share of that IGST will go to the state of Rajasthan as it is the place of supply.• The taxpayer believes that he is not required to take registration in the state of Rajasthan.
ISSUE
<ul style="list-style-type: none">• Whether applicant is required to be registered in the State of Rajasthan?
HELD
<ul style="list-style-type: none">• A supplier of service will have to register at the location from where he makes taxable supplies or is supplying taxable services if his aggregate turnover in a financial year exceeds prescribed limit.• While supplying services if the supplier of services (i.e. the applicant) has any place of business/office in the State of Rajasthan i.e. has fixed establishment for operation in State of Rajasthan (place where the services are to be provided) then he is required to get himself registered in State of Rajasthan.

4. Whether TRAN-1 filed after the transition of indirect tax can be rectified

Applicant	Jay Chemicals Industries ltd
Journal of Publication	10828/2018
Date of Ruling	28 th September, 2018
Ruling Authority	Authority for Advance Rulings, Punjab

FACTS
<ul style="list-style-type: none">• Appellant filed TRAN-1 within the time originally permitted. After the time limit was over, the petitioner noticed that three transactions which were in pipeline when the GST was brought into force, due to oversight were not included in such declaration.• After noticing the error, the appellant approached the authority to correct the declaration. Therefore, the request was not approved.
ISSUE
<ul style="list-style-type: none">• Whether TRAN-1 can be rectified?
HELD
<ul style="list-style-type: none">• There is no scope for directing the respondents to allow the appellant to correct the TRAN1 declaration already made. It was further observed that such time limit initially provided in the rules was extended from time to time and lastly up to 27.12.2017.• Further, the limited extension has been granted to cover cases where genuine hardships were felt in uploading said declarations due to technical glitches.

5. Benefit of Reduction in GST Rate should be given on same product:

Applicant	Kunj Lub Marketing (P.) Ltd.
Journal of Publication	[2018] 98 taxmann.com 166 (NAA)
Date of Ruling:	8 th October, 2018
Ruling Authority	National Anti-Profiteering Authority

FACTS
<ul style="list-style-type: none">• The applicant has requested for advance ruling against respondent ruler on profiteering for not passing on benefit of reduced GST rate.• Further the applicant submitted the documents. Respondent's contention that it passed the benefit by reducing the MRP of the other product was unacceptable as benefit accrued due to reduction in rate of tax of one product cannot be passed on via another product.
ISSUE
<ul style="list-style-type: none">• Respondent dealer had not passed on benefit of reduction in rate of duty to applicants in respect of product despite reduction in tax rate
HELD
<ul style="list-style-type: none">• The Respondent had denied benefit of the reduction in GST rate to the consumers in contravention of the provisions of Section 171 (1) of the CGST Act, 2017 and has thus realized more price from them than he was entitled to collect and had also compelled them to pay more GST than that they were required to pay by issuing incorrect tax invoices and hence he has committed offence under section 122 (1) (i) of the CGST Act, 2017 and therefore, he is liable for imposition of penalty.

6. Services provided by SEZ co-developer from non-processing zone to be treated as zero rated supplies

Applicant	M/S. Sapthagiri Hospitality
Journal of Publication	98 taxmann.com 126
Date of Ruling:	30 th July, 2018
Ruling Authority	Authority For Advance Rulings, Gujarat

FACTS
<ul style="list-style-type: none"> • The applicant constructed a hotel in the non-processing zone of Dahez SEZ on the land allotted to it and started hospitality services therein. • The applicant submitted that the hospitality services provided by them inter-alia includes providing rooms on tariff, supplying food/beverages, laundry services, housekeeping services etc. within the premises of the hotel. • The applicant further stated that considering the provisions of Section 16(1) (b) of the IGST Act, 2017. The company running a hotel in SEZ should not be made liable to pay GST considering the services provided by it as 'Zero Rated Supply'. They further submitted that as place of supply in terms of Section 12 of IGST Act shall be the location of the hotel itself i.e. SEZ, to their belief and understanding. • There shall not be the requirement to pay GST either on the services provided to clients located in SEZ or a visitor coming from a territory outside SEZ as place of supply as well as the location of supplier providing the said services is within SEZ only.
ISSUE
<ul style="list-style-type: none"> • The hotel being located in non-processing zone of Dahez Special Economic Zone whether liable to pay GST on all the services provided by it to the clients located in SEZ which inter-alia included supply of services by way of providing accommodation services, supplying food and beverages and supplying services ancillary to providing accommodation services? • Under extreme circumstances, if the hotel is required to provide accommodation services to a visitor other than a visitor located in SEZ, whether GST is required to be paid?
HELD
<ul style="list-style-type: none"> • The supplies made by M/s. Sapthagiri Hospitality Private Limited, a SEZ Co-developer from their hotel located in non-processing zone of Dahez Special Economic Zone to the clients located in Special Economic Zone for authorized operations will be treated as zero rated supplies under the provisions of Section 16(1) of Integrated Goods and Service Tax Act, 2017. • The applicant is liable to pay GST on the services from their hotel located in non-processing zone of Dahez Special Economic Zone to the clients located outside the

territory of Special Economic Zone under the provisions of Section 5(1) of Integrated Goods and Service Tax Act, 2017.

7. Whether the amortized cost of the tool to be added to arrive at the value of the goods supplied for the purpose of GST.

Applicant	M/s Nash Industries (I) Pvt. Ltd.
Journal of Publication	KAR ADRG 24 / 2018
Date of Ruling	25 th October, 2018
Ruling Authority	Authority For Advance Ruling, Karnataka

FACTS
<ul style="list-style-type: none">• The applicant is in the business of manufacturing Sheet Metal Pressed Components and caters to various industries, ATM, printers etc. and is having multi-locational facilities in and around Bangalore.• He states that the earlier Central Excise Valuation Rules has similar provisions and it was held that the cost of amortization of the tool was to be added to the value of the goods removed for the purpose of payment of Excise duty.• Further he stated that the customers are of the view that the amortization cost is not includible to arrive at the value for the purpose of GST unlike the erstwhile Central Excise Law.
ISSUE
<ul style="list-style-type: none">• Whether the amortized cost of the tool to be added to arrive at the value of the goods supplied for the purpose of GST under Section 15 of the CGST Act read with rule 27 of CGST Rules?
HELD
<ul style="list-style-type: none">• The amortized cost of tools which are re-supplied back to the applicant free of cost shall be added to the value of the components while calculating the value of the components supplied as per the Section 15 of the CGST / SGST / IGST Act 2017.

8. Whether pure and mere promotion and marketing services will be “intermediary services” for the purposes IGST Act, 2017 for determining the place of supply of such services?

Applicant	M/s Toshniwal Brothers (SR) Private Limited.
Journal of Publication	KAR ADRG 23 / 2018
Date of Ruling	19 th September, 2018
Ruling Authority	Authority For Advance Ruling, Karnataka

FACTS
<ul style="list-style-type: none"> • The applicant is a supplier of services to overseas clients and is engaged in the business of promotion and marketing and after sale support services as a composite supply. • The applicant would solicit orders for the goods of the overseas customer in India by marketing and promoting the goods in India. The orders for the products would be placed directly by the prospective customers on the overseas entity • The applicant has entered into an agreement with their customers (Service Recipients), who are located outside India (which is a non-taxable territory in terms of clause (79) of section 2 of the CGST Act, 2017) 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 Nano Science, Material Science, Bio Pharma and Polymer Sciences.
ISSUE
<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 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? • Whether the above contracts would qualify as exports if the client is overseas entity, in terms of clause (6) of section 2 of the Integrated Goods and Services Tax Act, 2017 and will be a zero-rated supply as provided in section 16 of IGST Act, 2017?
HELD
<ul style="list-style-type: none"> • The contract of services supplied are not pure and mere promotion and marketing services and the services provided is of the nature of facilitating the supply of goods, and hence would amount to “intermediary services” for the reasons enumerated in the aforesaid paragraphs for the purposes of determination of place of supply of such services.

- The after-sale services provided are not in the nature of a composite contract and they are independent from the services provided in paragraph 1 above and hence there is no question of determination of what will the principal supply.
- The third question cannot be answered as it is not in the purview of jurisdiction of this Authority as it amounts to determination of the place of supply.

9. Services of back-office administrative, accounting support and payroll-processing, to overseas client, are not 'Zero-rated' supply.

Applicant	Vserve Global private limited
Journal of Publication	GST-ARA-03/2018-19/B
Date of Ruling	7 th July, 2018
Ruling Authority	Authority For Advance Ruling, Maharashtra

FACTS
<ul style="list-style-type: none"> • The applicant is an Indian company having its office at Mumbai. The company is incorporated to provide back office support services to overseas companies (herein after referred to as clients). Brief description of services rendered on behalf of client include : <ol style="list-style-type: none"> a) Co-ordination and follow-up with client's suppliers/customers for execution of purchase and sales contracts. b) Creating and arranging documentation (purchase order, sales contract, proforma invoice, shipping instructions etc.) to be maintained between clients and their suppliers/customers. c) Liasoning with supplier/inspection authorities. d) Informing customers on tentative schedule. e) Processing and sending payment request to client's customers. f) Processing and sending payment request to client for payment to suppliers. g) Co-ordination and follow-up with supplier and forwarder. h) Follow-up and arranging for documents like bill of lading (BL) and other shipping documents with supplier. i) Arranging inspection certificates and raise payment request for freight and inspection charges, if applicable. j) Troubleshooting. k) Maintain records of employees of client, their payroll processing, accounting of payments to suppliers by client etc. • Clients are engaged in trading of chemicals and other products in International Trade. • The applicant will be compensated for its services either on fixed monthly basis or as per the volume of transactions on mutually agreed terms in convertible Foreign Exchange.
ISSUE
<ul style="list-style-type: none"> • Whether the aforesaid services proposed to be rendered qualify as 'Zero Rated Supply' in terms of Section 16 of the integrated Goods and Services Tax Act,2017 or not?

HELD

- The applicant arranges/facilitates supply of goods & services or both between overseas client and customers and customers of overseas client, therefore, applicant is clearly covered and falls in 'Intermediary' definition as contained under section 2(13) of IGST Act, 2017.
- Accordingly, place of supply in case of such 'Intermediary' services would be the location of supplier of services in terms of Section 13(8) of IGST Act.
- Hence, "services proposed to be rendered by the applicant do not qualify as 'export of services' as defined under section 2(6) and thus not a 'Zero rated supply' as per section 16(1) of the IGST Act, 2017.

10. Whether GST is applicable on One Time Concession Fees on a property, leased for Development of Infrastructure on Private Investment mode on DBFOT basis.

Applicant	M/s Goa Tourism Development Corporation Ltd.
Journal of Publication	GOA/GAAR/4 of 2018-19/2429
Date of Ruling	24 th September, 2018
Ruling Authority	Authority for Advance Ruling, GOA

FACTS
<ul style="list-style-type: none"> • The applicant is Government Company and is registered under the provisions of GST. • It has executed concession agreement for Renovation/Development of their Anjuna property through Private investment mode with Myrayash hotels and has given the exclusive right, license and authority to construct, operate and maintain the project for a period of 30 years extendable by further period of 30 years totaling 60 years.
ISSUE
<ul style="list-style-type: none"> • Whether GST is applicable on One Time Concession Fees Charged by M/s Goa Tourism Development Corporation Ltd. in respect of their property namely Anjuna property given to M/s Myrayash Hotels Pvt. Ltd. for a long term lease of 60 years for development of infrastructure for financial business on Private Investment mode on DBFOT basis (Design Build, Finance, Operate and Transfer) providing exclusive right, license and authority to construct, operate and maintain the project.
HELD
<ul style="list-style-type: none"> • The service provided by the applicant in the instant matter, is not falling under the criterion mentioned at Sr. No. 41 of the Notification No. 12/2017-Central Tax (Rate), dated 28.06.2017 as amended by the Notification No. 32/2017-Central Tax (Rate), dated 13.10.2017 which exempts the Intra-state supply of services as mentioned therein. • Therefore, the applicant is not entitled for the benefits of the said notification and the activity of long term lease is liable for levy of GST.

11. Whether utilization/Refund of ITC, available in GST portal for purchasing vehicles for core business activity

Applicant	M/s Indian Cotton Solutions.com Pvt. Ltd
Journal of Publication	AAR/AP/16(GST)/2018
Date of Ruling	6 th June, 2018
Ruling Authority	Authority For Advance Ruling, Andhra Pradesh

FACTS
<ul style="list-style-type: none">• M/s Indian Cotton Solutions.com Pvt. Ltd are engaged in supply of service by providing mobile laboratory services.• The applicant has filed an application in form GST ARA-01 for seeking Advance ruling on Admissibility of input tax credit of tax paid or deemed to have been paid.
ISSUE
<ul style="list-style-type: none">• Whether they can utilize/refund the ITC which is readily available in GST portal, for the vehicles purchased by them for the purpose of their core business activity?
HELD
<ul style="list-style-type: none">• As per Section 17(5) of CGST/APGST Act, “Notwithstanding anything in section 16(1) and section 18(1), Input Tax Credit shall not be available in respect of the following namely: ‘Motor Vehicles and other conveyances except when they are used i. For making following taxable supplies, namely a) Further supply of such vehicles or conveyance; or b) Transportation of Passengers; or c) Imparting training on driving, flying, navigating such vehicles or conveyance ii. For Transportation of goods.”• It is clear from the plain reading of the section that the goods referred by the applicant do not fall under the exceptions referred in sec 17(5) of CGST/APGST ACT, 2017. Hence the applicant is not entitled for claim of ITC.

12. Whether the activities undertaken by the applicant are supplies of service?

Applicant	The Association of Inner Wheel Clubs in India
Journal of Publication	23/WBAAR/2018-19
Date of Ruling	26 th November, 2018
Ruling Authority	Authority For Advance Ruling, West Bengal

FACTS
<ul style="list-style-type: none">• The applicant is affiliated to international Inner Wheel one of the largest women's service voluntary organizations and it is involved in social work with the aim of helping people live better lives.• The applicant organizes events which combine personal service, fundraising, fellowship and fun united by friendship and to serve the community.• They provide financial and other practical support to the financially disadvantaged classes, including people suffering from natural disaster or in war-torn regions.• The club accumulates funds through subscriptions, sponsorship fees, the sale of souvenirs, etc.
ISSUE
<ul style="list-style-type: none">• Whether or not the activities undertaken by the Applicant is to be considered as "supply of services"?
HELD
<ul style="list-style-type: none">• The Applicants activities involve supply of services classifiable under SAC Heading 99959 against consideration received in the form of subscription and membership fees.• Services classifiable under SAC Heading 99836 are also supplied. Sale of souvenirs is to be considered as a supply of goods.• The nature of supply for miscellaneous income as recorded in the Financial Accounts is to be determined by the nature of the supply.

13. Whether toll charges reimbursed by the clients are eligible for deduction u/r 33 from the value of supply?

Applicant	Premier Vigilance & Security Pvt Ltd
Journal of Publication	20/WBAAR/2018-19
Date of Ruling	02 th November, 2018
Ruling Authority	Authority For Advance Ruling, West Bengal

FACTS
<ul style="list-style-type: none">• The Applicant provides security service to the Banks.• He also transports cash/coins/bullion in specially built vehicles or Customized Cash vans (CCVs).• Because of such transportation the vehicles move along National and State Highways and the Applicant pays toll charges to both NHAI and State Authority, which is reimbursed by the client Banks.
ISSUE
<ul style="list-style-type: none">• Whether toll charges reimbursed by the clients are eligible for deduction under Rule 33 from the value of supply?
HELD
<ul style="list-style-type: none">• Toll charges paid are not to be excluded from the value of supply under Rule 33.• GST shall be payable at the applicable rate on the entire value of the supply including toll charges paid.• The Applicant is not acting as a pure agent of the Bank while paying toll charges which are the cost of the service provided to the Banks so that his vehicles can access roads/bridges to provide security services to the recipient.