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## KEY UPDATES

NOVEMBER, 2019

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## SIGNIFICANT NOTIFICATIONS

Sr. No	Notification No.	Key Update
1.	52/2019 - Central Tax, Dt- 14-11-2019	<p>➤ <b><u>Extension of due date for furnishing FORM GSTR-1 in Jammu and Kashmir having aggregate turnover of up to 1.5 crore rupees for quarter July, 2019 to September, 2019.</u></b></p> <ul style="list-style-type: none"> <li>Registered persons whose principal place of business is in the UT of Jammu and Kashmir, <b>shall furnish the details of outward supply</b> of goods or services or both <b>in FORM GSTR-1</b> effected during the quarter July-September, 2019 <b>till 30th November, 2019.</b></li> </ul> <p>This notification shall be deemed to come into force with effect from the 31st day of October, 2019.</p>
2.	53/2019 - Central Tax, Dt- 14-11-2019	<p>➤ <b><u>Extension of the due date for furnishing of return in FORM GSTR-1 in Jammu and Kashmir having aggregate turnover more than 1.5 crore rupees for the months of July, 2019 to September, 2019.</u></b></p> <ul style="list-style-type: none"> <li>Registered persons whose principal place of business is in the State of Jammu and Kashmir, <b>shall furnish the details of outward supplies in FORM GSTR-1</b> for each of the months from July, 2019 to September, 2019 <b>till 15th November, 2019."</b></li> </ul> <p>This notification shall be deemed to come into force with effect from the 11th day of August, 2019.</p>
3.	54/2019 - Central Tax, Dt- 14-11-2019	<p>➤ <b><u>Extension of the due date for furnishing of return in FORM GSTR-3B in Jammu and Kashmir for the months of July, 2019 to September, 2019.</u></b></p> <ul style="list-style-type: none"> <li>The <b>return in FORM GSTR-3B</b> for the months of July to September, 2019 for registered persons whose principal place of business is in the State of Jammu and Kashmir, shall be furnished electronically through the common portal, <b>on or before the 20th November, 2019.</b></li> </ul> <p>This notification shall be deemed to come into force with effect from the 20th day of September, 2019.</p>
4.	55/2019 - Central Tax, Dt- 14-11-2019	<p>➤ <b><u>Extension of the due date for furnishing of return in FORM GSTR-7 in Jammu and Kashmir for the months of July, 2019 to September, 2019.</u></b></p> <ul style="list-style-type: none"> <li>The return by a registered person, required to deduct tax at source under the provisions of section 51 in FORM GSTR-7 for the months of</li> </ul>

		<p>July, 2019 to September, 2019, whose principal place of business is in the State of Jammu and Kashmir shall be furnished electronically through the common portal, <b>on or before the 15th November, 2019.</b></p> <p>This notification shall be deemed to come into force with effect from the 20th day of September, 2019.</p>																
5.	56/2019 - Central Tax, Dt- 14-11-2019	<p>➤ <b><u>Seeks to carry out Seventh amendment (2019) in the CGST Rules, 2017. (Primarily related to Simplification of the Annual Return or Reconciliation Statement)</u></b></p> <p>Following amendments are made to the CGST Rules:</p> <ol style="list-style-type: none"> <li>1) Changes are made in the Statement or declarations to be given along with the refund application i.e. <b>form GST RFD 01.</b></li> <li>2) Changes have been made to simplify GSTR-9 and GSTR-9C forms. HSN-wise reporting of inward supplies is made optional.</li> </ol> <p>• <b><u>Amendments /changes made in GSTR 9 (for FY 2017-18 &amp; FY 2018-19)</u></b></p> <table border="1"> <thead> <tr> <th>Sr. No.</th> <th>Table Number</th> <th>Existing</th> <th>Amendment/ Relaxation</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>4I, 4J, 4K &amp; 4L (Outward Supplies with payment of tax)</td> <td>Details of Debit Notes, Credit Notes and amendments made w.r.t. B2B supplies, Zero Rated Supplies and Deemed Exports require to report separately in the given table.</td> <td>Option to report the details of Debit Notes, Credit Notes and amendments made w.r.t. B2B supplies, Zero Rated Supplies and Deemed Exports by netting off with B2B supplies, etc. instead to reporting separately.</td> </tr> <tr> <td>2.</td> <td>5D, 5E &amp; 5F (Outward Supplies)</td> <td>Details of exempted, nil rated and Non-GST supplies requires to report separately in the given table number.</td> <td>Option to report all these supplies under one head "Exempted" (Table Number 5D)</td> </tr> <tr> <td>3.</td> <td>5H, 5I, 5J &amp; 5K (Outward</td> <td>Details of Debit Notes, Credit Notes</td> <td>Option to report the details of</td> </tr> </tbody> </table>	Sr. No.	Table Number	Existing	Amendment/ Relaxation	1.	4I, 4J, 4K & 4L (Outward Supplies with payment of tax)	Details of Debit Notes, Credit Notes and amendments made w.r.t. B2B supplies, Zero Rated Supplies and Deemed Exports require to report separately in the given table.	Option to report the details of Debit Notes, Credit Notes and amendments made w.r.t. B2B supplies, Zero Rated Supplies and Deemed Exports by netting off with B2B supplies, etc. instead to reporting separately.	2.	5D, 5E & 5F (Outward Supplies)	Details of exempted, nil rated and Non-GST supplies requires to report separately in the given table number.	Option to report all these supplies under one head "Exempted" (Table Number 5D)	3.	5H, 5I, 5J & 5K (Outward	Details of Debit Notes, Credit Notes	Option to report the details of
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			Supplies without payment of tax)	and amendments made w.r.t. Zero Rated Supplies, exempted, nil rated etc. require to report separately in the given table.	debit Notes, credit Notes and amendments made w.r.t. Zero Rated Supplies, exempted, nil rated etc. by netting off with zero rated supplies, etc. instead to report separately in case there is any difficulty in reporting the same.
		4.	6 (Inward Supplies)	Input, Input Services and Capital goods require to separately for inward supplies.	Option to report all inward supplies under the head "Inputs"
		5.	6C & 6D (Inward Supplies-RCM)	Inward supplies received from unregistered or registered person liable to RCM require to report separately.	Option to report all inward supplies under the table 6D, namely inward supplies received from registered person.
			6H (Import of goods- Including supplies from SEZ)	Details of ITC availed on Import of goods including goods received from SEZ require to report separately.	Option to report all inward supplies under the table 6E-Inputs, namely inward supplies received from registered person.
		6.	7 (ITC Reversal)	Detail of ITC Reversal as per rule 37, 39, 42, 43 & 17(5) and other reversal are required to report separately	Option to report all such reversal in the table number 7H, namely other reversals

			under respective table.	however TRAN 1 (Table 7F) and Tran 2 (Table 7G) reversals are to be mandatorily reported.	
		7.	8A to 8D (GSTR 2A Reconciliation)	GSTR 2A generated as on 01.05.2019 shall be auto-populated	GSTR 2A generated as on 01.11.2019 shall be auto-populated. Further, option to upload the details for entries in Table 8A to 8D duly signed in PDF format in Form GSTR 9C (without CA certification).
		8.	12 & 13 (Inward Supplies-Amendment)	Details of ITC reversed or availed for the previous financial year	Option to not fill this table.
		9.	15A to 15G	Particulars of Demand & Refund	Option to not fill this table.
		10.	16A to 16C	Information on supplies received from Composition taxpayers, deemed supply u/s 143 and goods sent on approval basis	Option to not fill this table.
		11.	17 & 18	HSN wise summary of outward & inward supplies.	Option to not fill this table.

• **Amendments /changes made in GSTR 9C (for FY 2017-18 & FY 2018-19)**

Sr. No.	Table No.	Existing	Amendment/relaxation
1.	5B to 5N (Turnover Part)	Various adjustments for reconciliation between turnover as per audited financial statements and GST turnover as per Annual Return	Option to not fill this table.  Report all such adjustment in Table 50, namely adjustment in turnover not listed above
4.	12B & 12C (Inward Supplies)	ITC booked in earlier FY claimed in current FY, ITC booked in current FY to be claimed in subsequent FY are <b>required to report separately</b> in the given table number.	Option to not fill this table.
5.	14 (Expense wise details)	Details of ITC availed on account of purchases, freight, bank charges, etc. are <b>required to report separately.</b>	Option to not fill this table.

• **Other Amendments in Certification Part B of Form GSTR 9C**

Sr. No	Existing	Amendment
1.	Particulars given in the form GSTR 9C are <b><u>true and correct...</u></b>	Particulars given in the form GSTR 9C are <b><u>true and fair ...</u></b>

6.	57/2019 Central Tax, Dt- 26-11-2019	-	<p>➤ <b><u>Extension of the due date for furnishing of return in FORM GSTR-1 in Jammu and Kashmir having aggregate turnover more than 1.5 crore rupees for the months of July, 2019 to September, 2019 has been further extended from 15<sup>th</sup> November, 2019 to 30<sup>th</sup> November, 2019.</u></b></p> <p>This notification shall be deemed to come into force with effect from the 15th Day of November, 2019.</p>
7.	58/2019 Central Tax, Dt- 26-11-2019	-	<p>➤ <b><u>Extension of the due date for furnishing of return in FORM GSTR-1 in Jammu and Kashmir having aggregate turnover more than 1.5 crore rupees for the month of October, 2019 has been extended to 30<sup>th</sup> November, 2019.</u></b></p> <p>This notification shall be deemed to come into force with effect from the 11th Day of November, 2019.</p>
8.	59/2019 Central Tax, Dt- 26-11-2019	-	<p>➤ <b><u>Extension of the due date for furnishing of return in FORM GSTR-7 in Jammu and Kashmir for the months of July, 2019 to October, 2019 has been extended to 30<sup>th</sup> November, 2019.</u></b></p> <p>This notification shall be deemed to come into force with effect from the 10th day of September, 2019.</p>
9.	60/2019 Central Tax, Dt- 26-11-2019	-	<p>➤ <b><u>Extension of the due date for furnishing of return in FORM GSTR-3B for registered persons in Jammu and Kashmir for the months of July, 2019 to September, 2019 has been further extended from 20<sup>th</sup> November, 2019 to 30<sup>th</sup> November, 2019.</u></b></p>
10.	61/2019 Central Tax, Dt- 26-11-2019	-	<p>➤ <b><u>Extension the due date for furnishing of return in FORM GSTR-3B for registered persons in Jammu and Kashmir for the month of October, 2019 has been extended to 30<sup>th</sup> November, 2019.</u></b></p>
11.	62/2019 Central Tax, Dt- 26-11-2019	-	<p>➤ <b><u>Notifying the transition plan with respect to J&amp;K reorganization w.e.f. 31.10.2019.</u></b></p> <ul style="list-style-type: none"> <li>• The Government has notified those persons whose principal place of business or place of business lies in the erstwhile State of Jammu and Kashmir till the 30th day of October, 2019; and lies in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31st day of October, 2019 onwards, as the class of persons who shall follow the following special procedure till the 31st day of</li> </ul>



December, 2019 (hereinafter referred to as the transition date), as mentioned below:

1) The said class of persons shall:-

- Ascertain the tax period as per section 106(2) of the CGST Act, 2017 for the month of October, 2019 and November, 2019.
- Pay the appropriate applicable tax in the return under section 39 of the CGST Act, 2017 irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from 31st October, 2019 till the transition date.
- Have an option to transfer the input tax credit (ITC) from the registered Goods and Services Tax Identification Number (GSTIN), till 30th October, 2019 in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31st day of October.
- Shall intimate the jurisdictional tax officer of the transferor and the transferee regarding the transfer of ITC, within one month of obtaining new registration;
- The ITC shall be transferred on the basis of ratio of turnover of the place of business in the Union Territory of Jammu and Kashmir and in the Union Territory of Ladakh;
- The transfer of ITC shall be carried out through the return under section 39 of the said Act for any tax period before the transition date and the transferor GSTIN would be debiting the said ITC from its electronic credit ledger in Table 4 (B) (2) of FORM GSTR-3B and the transferee GSTIN would be crediting the equal amount of ITC in its electronic credit ledger in Table 4 (A) (5) of FORM GSTR-3B.

2) The balance of State taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Ladakh from the 31st day of October, 2019, shall be transferred as balance of Union territory tax in the electronic credit ledger.

3) The provisions of clause (i) of section 24 of the said Act i.e. Compulsory registration, shall not apply on the said class of persons

		making inter-State supplies between the Union territories of Jammu and Kashmir and Ladakh from the 31st day of October, 2019 till the transition date.
12.	<p>26/2019 - Central Tax (Rate), Dt-22-11-2019</p> <p>25/2019 - Integrated Tax (Rate), Dt- 22-11-2019</p> <p>And</p> <p>26/2019 - Union Territory tax(rate), Dt- 22-11-2019</p>	<p>➤ <b><u>Explanation regarding Bus Body Building</u></b></p> <ul style="list-style-type: none"> <li>• Automobile Body or Bus Body building is an activity wherein the chassis are supplied by Automobile manufacturers, and body is built by automobile body builders as per the requirements of the customer and specifications of the different State Transport Undertakings.</li> <li>• The Government hereby clarifies that the term “bus body building” shall include building of body on chassis of any Vehicle Other Than Railway or Tramway Rolling-Stock, and Parts and Accessories Thereof (vehicles falling under chapter 87 in the First Schedule to the Customs Tariff Act, 1975).</li> </ul>

## SIGNIFICANT CIRCULARS AND ORDERS

Sr. No.	Circular/ Order No.	Key Update
1.	8/2019 - Central Tax Dt-14.11.2019	<p>➤ <b><u>Extension of the last date for furnishing of annual return/reconciliation statement in FORM GSTR-9/FORM GSTR-9C for FY 2017-18 and for FY 2018-19.</u></b></p> <ul style="list-style-type: none"> <li>• Due to certain technical problems faced by the taxpayers, the said annual return for the period from the 1st July, 2017 to the 31st March, 2018 and for the period from 1st April, 2018 to the 31st March, 2019 could not be furnished by the registered persons.</li> <li>• Therefore, it is hereby declared that the <b>annual return for the period from the 1st July, 2017 to the 31st March, 2018 shall be furnished on or before the 31st December, 2019</b> and the annual return for the period from the <b>1st April, 2018 to the 31st March, 2019</b> shall be <b>furnished on or before the 31st March, 2020.</b></li> </ul>
2.	122/2019- Central Tax Dt-05.11.2019	<p>➤ <b><u>Generation and quoting of DIN on any communication issued by the officers of the CBIC to tax payers and other concerned persons.</u></b></p> <ul style="list-style-type: none"> <li>• The CBIC has implemented a system for the electronic generation of a Document Identification Number (DIN) to be mandatorily quoted on communication sent out to taxpayers and other persons, such as search authorizations, summons, arrest memos, inspection notices and letters issued in the course of any enquiry.</li> <li>• Any specified document issued without the electronically generated DIN shall be treated as invalid and shall be deemed to have never been issued.</li> </ul>
3.	123/2019- Central Tax Dt-11.11.2019	<p>➤ <b><u>Clarification on restrictions in availment of ITC in terms of sub-rule (4) of rule 36 of the CGST Rules, 2017.</u></b></p> <ul style="list-style-type: none"> <li>• The conditions and eligibility for the ITC that may be availed by the recipient as per the new rule 36(4) of the CGST Rules, 2017 have been clarified.</li> <li>• Rule 36(4) limits input tax credit claims to 20% of the “eligible amount” where in respect of invoices or debit notes, the details have not been uploaded by the suppliers in their respective GSTR-1. Effectively ITC shall not exceed 20% of the eligible credit reflected in GSTR-2A. The 20% cap on the eligible Input Tax Credit will not be calculated supplier-wise and GST payers can avail the input tax credit on a consolidated basis. The provision is applicable from 9th October, 2019. Thus every</li> </ul>

registered person is required to view the GSTR-2A for determining the due ITC and for filing his GSTR-3B.

- The limit of 20% on availing input tax credit under the GST rule 36 (4) introduced on October 9th 2019 will not be applicable on following three cases:
  - i. ITC in respect of the IGST paid on imports and these importers can directly avail the input tax credit;
  - ii. The cap of 20% will also not apply to those cases where GST has been paid under the Reverse Charge Mechanism (RCM) and;
  - iii. The ceiling of 20% on availing ITC will also not apply on Input Service Distributors (ISD), these are those businesses that receive invoices on behalf of the services used by their branches and subordinate offices.
- The calculation would be based on only those invoices which are otherwise eligible for ITC. Accordingly, those invoices on which ITC is not available under any of the provision (Section 17(5) of CGST Act) would not be considered for calculating 20% of the eligible credit available.
- The taxpayer may have to ascertain the same from his auto populated FORM GSTR 2A as available on the due date of filing of FORM GSTR-1 under section 37(1).
- As per clarification provided, for example, say a taxpayer “R” receives 100 invoices (for inward supply of goods or services) involving ITC of Rs. 10 lakhs, from various suppliers during the month of Oct, 2019 and has to claim ITC in his FORM GSTR-3B of October, to be filed by 20th Nov, 2019.

<b>Details of Suppliers invoices for which Recipient is eligible to take ITC</b>	<b>20% OF Eligible credit where invoices are uploaded</b>	<b>Eligible ITC to be taken in GSTR-3B to be filed by 20<sup>th</sup> November,2019</b>
Suppliers have furnished in FORM GSTR-1 80 invoices involving ITC of <b>Rs.6 lakhs</b> as on due date of furnishing of details of outward supplies by the suppliers.	<b>Rs.1,20,000/-</b>	Rs.6,00,000(i.e. amount of eligible ITC available, as per details uploaded by suppliers) + Rs.1,20,000(20% OF Eligible credit)= <b>Rs.7,20,000/-</b>

**When can balance ITC be claimed in case avilment of ITC is restricted as per the provisions of rule 36(4)?**

balance ITC may be claimed by the taxpayer in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers. He can claim proportionate ITC as and when details of some invoices are uploaded

		<p>by the suppliers provided that credit on invoices, the details of which are not uploaded (under sub-section (1) of section 37) remains under 20 per cent of the eligible input tax credit, the details of which are uploaded by the suppliers. Full ITC of balance amount may be availed, in present illustration by “R”, in case total ITC pertaining to invoices the details of which have been uploaded reaches Rs. 8.3 lakhs (Rs 10 lakhs /1.20). In other words, taxpayer may avail full ITC in respect of a tax period, as and when the invoices are uploaded by the suppliers to the extent Eligible ITC/ 1.2. The same is explained for above case as under:</p> <p><b><u>Illustration:</u></b></p> <p>“R” may avail balance ITC of Rs. 2.8 lakhs in case suppliers upload details of some of the invoices for the tax period involving ITC of Rs. 2.3 lakhs out of invoices involving ITC of Rs. 4 lakhs details of which had not been uploaded by the suppliers. [Rs. 6 lakhs + Rs. 2.3 lakhs = Rs. 8.3 lakhs]</p>
4.	124/2019- Central Tax Dt-18.11.2019	<p>➤ <b><u>Clarification on optional filing of annual return under notification No. 47/2019-Central Tax dated 9th October, 2019</u></b></p> <ul style="list-style-type: none"> <li>• Despite the option available for not filing GSTR-9A (Composition dealers) and GSTR-9(Annual aggregate turnover below Rs. 2 crore) for FY 2017-18 and FY 2018-19, it has been clarified that such taxpayers who wish to file can do so only before the designated due dates. The GST portal shall not allow the filing thereafter.</li> </ul>
5.	125/2019- Central Tax Dt-18.11.2019	<p>➤ <b><u>Clarification about fully electronic refund process through FORM GST RFD-01 and single disbursement</u></b></p> <ul style="list-style-type: none"> <li>• The entire process of refund claim has been shifted to online mode with RFD-01. The circular has provided for entire process for such online application process.</li> </ul>
6.	126/2019- Central Tax Dt-22.11.2019	<p>➤ <b><u>Clarification on scope of Job work under GST</u></b></p> <ul style="list-style-type: none"> <li>• A clear demarcation between scope of the entries at item (id) and item (iv) under heading 9988 of Notification No. 11/2017 of the Central Tax Rate. The item (id) refers to services carried out on goods belonging to registered persons under GST. Whereas the item (iv) refers to the services carried out on physical inputs (goods) which are owned by persons other than those registered under the CGST Act.</li> <li>• Job work has been defined in CGST Act as under. “Job work means any treatment or processing undertaken by a person on goods belonging to another registered person and the expression ‘job worker’ shall be construed accordingly.”</li> </ul>

7.	53T/2019-Trade circular-MGST Dt-21.11.2019	<p>➤ <b><u>Participation of Taxpayers and GST Practitioners in user acceptance testing of New Returns Offline Tool and online version of FORM GST ANX-1 &amp; FORM GST ANX-2</u></b></p> <ul style="list-style-type: none"> <li>• A new GST return system will be introduced from 1<sup>st</sup> April 2020. For the same, GST New Return Offline tool has been released on trial basis which includes FORM GST ANX-1 and FORM GST ANX-2 and a template for Purchase Register.</li> <li>• The important features of new returns are as under: <ul style="list-style-type: none"> <li>A. <b>FORM GST RET-1(Normal Monthly)</b>-Taxpayers whose aggregate turnover in preceding financial year is more than Rs.5 crores shall file this return based on FORM GST ANX-1 and FORM GST ANX-2, thereby declaring all types of outward supplies, inward supplies and taking credit on missing invoices. Change in periodicity of filing (i.e. From monthly to quarterly or vice versa) will be allowed only once at the time of filing the first return.</li> <li>B. <b>FORM GST RET-1(Normal Quarterly)</b>- Taxpayers whose aggregate turnover in preceding financial year is upto Rs.5 crores shall file this return based on FORM GST ANX-1 and FORM GST ANX-2, thereby declaring all types of outward supplies, inward supplies and taking credit on missing invoices, on quarterly basis and pay tax on monthly basis through FORM GST PMT-8. Taxpayers filing this quarterly return can switch over to Sugam or Sahaj return only once in financial year at the beginning of any quarter.</li> <li>C. <b>FORM GST RET-2(SAHAJ Quarterly)</b>- Taxpayers whose aggregate turnover in preceding financial year is upto Rs.5 crores and have supplies only to consumers and unregistered persons, shall file this return based on FORM GST ANX-1 and FORM GST ANX-2, thereby declaring B2C outward supplies and inward supplies attracting reverse charge only , on quarterly basis and pay tax on monthly basis through FORM GST PMT-8.Taxpayers filing this quarterly return can switch over to Sugam or Quarterly (normal) more than once in a financial year at the beginning of any quarter.</li> <li>D. <b>FORM GST RET-3(SUGAM Quarterly)</b>- Taxpayers whose aggregate turnover in preceding financial year is upto Rs.5 crores and have supplies to consumers, unregistered persons and registered persons, shall file this return based on FORM GST ANX-1 and FORM GST ANX-2, thereby declaring B2B &amp; B2C outward supplies and inward supplies attracting reverse charge only , on quarterly basis and pay tax on monthly basis through FORM GST PMT-8.Taxpayers filing this quarterly return can switch over to SAHAJ only once in a financial year at the beginning of any quarter and to Quarterly (normal) more than once in a financial year at the beginning of any quarter.</li> </ul> </li> </ul>
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• **Forms of new GST returns**

1. **GST ANX-1**-This annexure reports all Invoice wise details of B2B outward supplies, inward supplies attracting reverse charge and B2C supplies. All suppliers with annual aggregate turnover of more than Rs.5 Crores and that in relation to exports, imports and SEZ supplies will upload HSN level data atleast upto 6 digit for both goods as well as services.
2. **GST ANX-2**- Details of documents uploaded by the corresponding suppliers will be auto populated in this form and recipients can take action on these documents-to accept, reject or to keep pending on continuous basis after 10<sup>th</sup> of following month on which it was uploaded by supplier. Accepted documents cannot be amended by supplier. Supplier can only edit rejected documents before filing subsequent return. However, credit will be available to recipient through next FORM GST ANX-2.

**For detailed Notifications, Orders and Circulars kindly follow below link-**  
<http://www.cbic.gov.in/htdocs-cbec/gst/central-tax-notfns-2017>

## RECENT CASE LAWS

### 1. What is the applicable rate of tax for the provision of construction service rendered to NCBD?

Applicant	<b>URC Construction Pvt Ltd</b>
Journal of Publication	KAR ADRG 73
Date of Ruling	23rd September
Ruling Authority	<b>AAR- Karnataka</b>

#### FACTS

- The applicant states that he has entered into a works contract agreement with the National Centre for Biological Sciences for execution of works contract for construction of the building for laboratories and associated facilities at NCBS Campus in Bangalore. NCBS began as a separate centre of the Tata Institute of Fundamental Research which receives grants from the Department of Atomic Energy.
- The applicant states that in this the transaction, two parties are involved viz., the contractor and the contractee and both parties have different opinions regarding the issue.
- The applicant, who is the contractor is having question that under the GST Act composite supply of works contract services are taxable at 12% or at 18%.

#### ISSUE

- What is the applicable rate of tax for the provision of construction service rendered to NCBD?

#### HELD

- The applicant has themselves stated that the NCBS began as a separate centre of TIFR in 1992, first in the Molecular Biology Unit at TIFR in Bombay, and then at the IISc Campus in Bangalore where its laboratories are established. The Government of India has agreed to fund the institute and the institute was to function as an autonomous unit under the aegis of TIFR.
- Hence NCBS is neither set up by an Act of Parliament or State Legislature nor is established by any Government.
- Further, the council which administers this institute has only four members appointed by the Government and hence the government does not have more than 90% control over it. One more important point to note is that this institute is not established to carry out a function entrusted by the Government. Hence, for all these reasons, NCBS is not covered under the definition of a "Government Entity" as per CGST act 2017.
- Hence it is not liable for tax at 6% CGST and 6 % SGST and is taxable at 9% CGST and 9% SGST.



## 2. Whether ITC is available on GST paid goods and services used as inputs in execution of "Works Contracts"

Applicant	<b>M/s KSR &amp; Company</b>
Journal of Publication	07/AP/GST/2019
Date of Ruling	14-Feb-2019
Ruling Authority	<b>AAR Andhra Pradesh</b>

<b>FACTS</b>
<ul style="list-style-type: none"><li>• Applicant is a works contractor executing works awarded by the Government of Andhra Pradesh, road &amp; building department.</li><li>• The work executed by the applicant is special repairs to feeder road by way of construction of granular sub base by providing HBG material and spreading uniform layers with motor grader.</li><li>• The predominant goods and services being utilized in execution of the above works are: Batching plant using for mixing of bitumen and metals to prepare hot mix for use in laying of roads; Road Rollers; Paver finisher; Tippers for carrying material; Bitumen; Metal Chips; Gravel; etc.</li></ul>
<b>ISSUE</b>
<ul style="list-style-type: none"><li>• Whether the applicant is eligible for Input Tax Credit (ITC) in respect of the GST paid on goods and services used as inputs in execution of "Works Contracts" specifically in execution of road work contracts to Government Engineering Department.</li></ul>
<b>HELD</b>
<ul style="list-style-type: none"><li>• The applicant is eligible for ITC in respect of the GST paid on goods and services used in execution of "Works Contracts". ITC restriction under Sec 17(5)(c)(d) will not apply to the applicant as his output is works contracts service and is not for himself.</li></ul>

### 3. IGST payable under RCM on import of Service by Government for business

Applicant	<b>Directorate of Skill Development Global Skill Development</b>
Date of Ruling	18 <sup>th</sup> July, 2019
Ruling Authority	<b>AAR, Madhya Pradesh</b>

<b>FACTS</b>
<ul style="list-style-type: none"><li>• M/s. Director of Skills Development Department of Technical Education Skill Development and Employment Govt. of Madhya Pradesh is unregistered in GST.</li><li>• The applicant has been awarded with the project to assist the Government of Madhya Pradesh in transforming its technical and vocational education and training system to create a skilled workforce that meets the evolving development needs of the state.</li><li>• ITE Education Services Pte. Ltd, a Singapore based Consultancy Company is to provide certain Consulting Services to the Directorate of Skill Development for the said Project.</li></ul>
<b>ISSUE</b>
<ul style="list-style-type: none"><li>• Whether the services received by the applicant from a provider of service located in a non-taxable territory would be liable to pay tax under reverse charge mechanism?</li></ul>
<b>HELD</b>
<ul style="list-style-type: none"><li>• The Applicant shall be liable to pay IGST on import of Service under Reverse Charge Mechanism.</li><li>• Services being availed by the Department of Skill Development from ITE Education Services Pte. Ltd, Singapore can be said to Import of services within the meaning of 2(11) of IGST Act 2017.</li><li>• Applicant is engaged in Business or profession as defined in the Section 2(17) of CGST Act.</li><li>• Since the transaction is in the nature of business, it shall not be covered under the exemption as per Notification No.9/2017-Integrated Tax (Rate) dated June 28, 2017.</li></ul>

#### 4. GST is liable on delayed payment by Share Broker from customers for Trading in securities

Applicant	<b>Indo Thai Securities Ltd</b>
Journal of Publication	taxknowdge.in
Date of Ruling	25 <sup>th</sup> June 2019
Ruling Authority	<b>AAR-Madhya Pradesh</b>

<b>FACTS</b>
<ul style="list-style-type: none"><li>• The applicant is a registered stockbroker dealing in the purchase/sale of securities for and on behalf of its clients and charges brokerage for its activities.</li><li>• Applicant acquires securities for and on behalf of its customers and recovers its dues. The dues mainly consist of two components, i.e., amount due towards the security and the brokerage. However, sometimes clients delayed the payment and on such delay, an additional amount is charged which is termed as interest /late fee/penalty.</li><li>• The applicant is of the view that the amount on which interest is charged consists of two components- cost of securities and brokerage. Interest charged on cost of securities is exempt under notification no. 12/2017 Central Tax (Rate) dated 28-06-2017 as amended.</li></ul>
<b>ISSUE</b>
<ul style="list-style-type: none"><li>• Advance ruling is sort on the matter whether there is any tax liability on such additional amount (termed as interest) charged on delayed payment.</li></ul>
<b>HELD</b>
<ul style="list-style-type: none"><li>• Stockbroking service is the principal supply and all other ancillary supplies shall take colors from the principal supply itself and it shall be classified as principal supplies i.e. Stock Broking Services.</li><li>• In respect of the question raised by the applicant we hold that the applicability of Notification No. 12/2017 has been discussed in point No 2 Above hence the additional amount being charged cannot be termed as interest and the exemption vide entry no 27 of such notification cannot be applied on the same.</li><li>• Thus, tax liability has to be computed on the amount charged as delayed payment as well.</li></ul>

## 5. No GST applicability on Volume discount received on purchases and sales through credit note

Applicant	<b>M/s Kwality Mobile Private Limited</b>
Journal of Publication	taxknowdge.in
Date of Ruling	24 <sup>th</sup> September 2019
Ruling Authority	<b>AAR-Karnataka</b>

<b>FACTS</b>
<ul style="list-style-type: none"><li>• M/s Kwality Mobikes (P) Ltd. (“the Applicant”) is in the business of supplying motor vehicles. He is the authorized dealer for Harley-Davidson India (“Authorised supplier”) who manufactures high-end two-wheeler motorcycles. The Applicant in its regular course of business purchases the vehicles from the authorized supplier wherein it charges 28% GST plus applicable Cess.</li><li>• The Authorised supplier allows credit period of 30 days and also fixes sales targets to the Applicant. Besides, on the purchase of vehicles that are over and above the limit fixed on regular purchases, the Applicant is also eligible for a volume discount, which is paid on monetary terms.</li><li>• To give effect to the above, the Authorised supplier issues a credit note to the Applicant which is not affecting the purchase price or sale price and hence there is no adjustment of GST.</li></ul>
<b>ISSUE</b>
<ul style="list-style-type: none"><li>• Whether the volume discount received on purchases and sales is liable for GST? If yes, under which HSN/SAC?</li><li>• Whether the Applicant has to issue a taxable invoice to this effect?</li></ul>
<b>HELD</b>
<ul style="list-style-type: none"><li>• The Volume Discount received on purchases in the form of credit note without any adjustment of GST is not liable for GST.</li><li>• The Volume Discount received on Retail (on sales) in the form of credit note without any adjustment of GST is not liable for GST.</li><li>• Since the amount received in the form of the credit note is actually a discount and not a supply by the applicant to the authorized supplier, the applicant need not issue tax invoice for this transaction.</li></ul>

**6. Whether royalty paid/dead rent on account of mining rights was liable to tax in the hands of applicant under the reverse charge mechanism**

Applicant	<b>M/s PKR Projects and Engineers</b>
Journal of Publication	
Date of Ruling	16-4-2019
Ruling Authority	<b>The Assistant Commissioner of State Tax, Peddapuram Circle, Kakinada Division.</b>

<b>FACTS</b>
<ul style="list-style-type: none"> <li>• M/s PKR Projects and Engineers is in the business of mining/ quarrying of broken or crushed stone which is commonly used for concrete aggregates, for road metalling or for railways falling under HSN 2517.</li> <li>• The applicant submits that it has to pay an advance dead rent towards land assessment to department of Geology every year as well as advance royalty/seigniorage along with income tax to the mines department.</li> </ul>
<b>ISSUE</b>
<ul style="list-style-type: none"> <li>• The applicant sought to know whether royalty paid/dead rent on account of mining rights was liable to tax in the hands of applicant under the reverse charge mechanism or not.</li> <li>• If so, what is the rate of GST- payable on the royalty/ dead rent.</li> </ul>
<b>HELD</b>
<ul style="list-style-type: none"> <li>• The Government provides license to various companies for exploration of natural resources like oil, hydrocarbons, iron ore etc. for which the licensee companies are required to pay consideration in the form of annual license fee, lease charges, royalty, etc. to the Government.</li> <li>• This activity of payment of dead rent or royalty is on supply of service (Licensing services for the right to use minerals including its exploration and evaluation) wherein the government of Andhra Pradesh is supplier and the applicant is recipient.</li> <li>• The applicant is receiving leasing / licensing services from the government of Andhra Pradesh, hence provisions of reverse charge mechanism are applicable. <b>Notification no.13/2017-CT (Rate)</b></li> <li>• The activity undertaken by the applicant falls at item (viii) of serial no. 17 of <b>notification no.11/2017</b>, which was further amended vide <b>Notification No. 27/2018- Central Tax (Rate)</b> and attracts 18% GST (9% CGST+ 9% SGST) w.e.f. 01.01.2019</li> </ul>

7. Whether the activity of on the technical testing services be treated as 'zero-rated supply'?

Applicant	<b>M/s Syngenta Bioscience Private Limited</b>
Journal of Publication	GOA/GAAR/09of 2018-19
Date of Ruling	29/8/2019
Ruling Authority	<b>Authority of Advanced Rulings Goa</b>

<b>FACTS</b>
<ul style="list-style-type: none"> <li>• The applicant is part of Syngenta Group which is headquartered in Switzerland and is engaged in providing R&amp;D as well as technical testing services on the agrochemical products to group companies across the globe from its EOU unit situated in Goa.</li> <li>• The goods on which technical testing is carried out are made available to the applicant in India with an objective of providing test reports to the overseas customer.</li> <li>• The test report is sent to the customer either along with the goods received for testing or without such goods.</li> </ul>
<b>ISSUE</b>
<ul style="list-style-type: none"> <li>• Whether the activity of on the technical testing services carried out by the applicant be treated as 'zero-rated supply'?</li> <li>• If the answer to the aforesaid question is negative, then is the applicant liable to pay IGST on the said 'supply'?</li> </ul>
<b>HELD</b>
<ul style="list-style-type: none"> <li>• In order to be qualified as export of service under IGST Act 2017, one of the conditions that needs to be fulfilled is that the place of supply of service should be outside India. <b>(Section 2(6) of IGST Act, 2017)</b></li> <li>• The place of supply of services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services shall be the location where the services are actually performed. <b>(Section 13(3) of the IGST Act, 2017)</b></li> <li>• Since activity of technical testing on goods is carried out in Goa, India, the place of supply of service is the location of supplier, i.e. Goa.</li> <li>• Hence the service provided by the applicant doesn't falls within the definition of export of service as defined under Section 2(6) of the IGST Act, 2017.</li> <li>• Since the supplier of service is in Goa, India and place of supply of service as determined under Section 13(3)(a) is also in Goa, India, the applicant is liable to pay CGST and SGST on the aforesaid supply of service.</li> </ul>

## 8. GST payable on development of land into residential layout and sale as per Joint Development Agreement

Applicant	<b>M/S Maarq Spaces Private Limited</b>
Journal of Publication	KAR ADRG 119/2019
Date of Ruling	30 <sup>th</sup> September 2019
Ruling Authority	<b>AAR Karnataka</b>

<b>FACTS</b>
<ul style="list-style-type: none"><li>• The Applicant is a Private Limited Company, registered under the Goods and Services Act, 2017, engaged in the business of property development.</li><li>• The Applicant submitted that he has entered into a Joint Development Agreement on 08/11/2017 with Landowners for development of land into residential layout along with specifications and amenities. The consideration was agreed on revenue sharing basis in the ratio of 75% for Landowner and Agreement Holder and 25% for Applicant.</li><li>• Cost of the development shall be borne by Applicant. Pursuant to JDA, Applicant had entered into an agreement with customers for sale of developed plots for consideration.</li></ul>
<b>ISSUE</b>
<ul style="list-style-type: none"><li>• Whether the activity of development and sale of land attract tax under GST?</li><li>• If the answer to the above is yes, for the purpose of taxable value, whether provision of rule 31 can be made applicable in ascertaining the value of land and supply of service?</li></ul>
<b>HELD</b>
<ul style="list-style-type: none"><li>• In the instant case what the applicant receives as their remuneration for the provision of the services of development of the land and their subsequent activities related to the sale of the plots is an amount equal to 25% of the open market value of each plot.</li><li>• The arrangement is that the applicant shall get the amount only as and when the plots are sold. As already discussed earlier this arrangement, where the applicant gets paid for their services only upon the sale of the plots, enables the landowners to not to spend their financial resources to pay the applicant for their services. The applicant gets 25% of the amount collected from the plot purchasers.</li><li>• The taxpayer contested that the development activity is bundled with sale of land and is integrally connected with sale of land, therefore the sale of developed plot is nothing but sale of land and does not attract tax under GST.</li><li>• The AAR observed that the core competence of the taxpayer lies in the field of conversion of raw piece of land into a well-developed residential layout and not in the sale of land. The activities undertaken include survey of the land, preparing a detailed map of the proposed layout, clearing/leveling the site, carrying out the construction of roads, designing and creating common amenities, etc.</li><li>• The activity of sale of plot is incidental to the main activity of development of land. Further, there were various provisions in the agreement which indicates that the taxpayer has no right over the land and consequently it is not engaged in sale of land as per entry no. 5 of Schedule III of the CGST Act.</li><li>• Hence, the activities amount to supply of services and is liable to GST. With respect to valuation, Rule 31 of the CGST Rule will be applicable and the value of supply will be 25% of the market value of each plot received by the taxpayer.</li></ul>

**9. Whether GST is to be paid by the applicant on the actual amount of commission retained by him for arranging transportation facility to their customer or he has to pay GST on the entire amount received from his customers without deducting the commission and What is the rate of tax payable.**

Applicant	<b>BALASUBRAMANYAM SARAVANA PERUMAL</b>
Journal of Publication	AAR No.23/AP/GST/2019
Date of Ruling	8 <sup>th</sup> JULY 2019
Ruling Authority	<b>AAR- ANDRA PRADESH</b>

<b>FACTS</b>
<ul style="list-style-type: none"> <li>• The applicant was registered as a GST regular dealer in the name of Chitra Transport at Vijayawada.</li> <li>• The applicant is engaged in the business to engage Lorries from lorry owners to provide transport facility and lorry owners. The applicant also issues lorry receipts.</li> <li>• The applicant after providing transport charges from his customers, he pays the requisite amount payable to the lorry owners, keeping some commission with him, for having arranged the transport facility to the customers.</li> </ul>
<b>ISSUE</b>
<ul style="list-style-type: none"> <li>• The applicant raised the following questions and requested to pass ruling on the following issues:               <ol style="list-style-type: none"> <li>1) Does he bound to pay GST on the actual amount of commission retained by him for arranging transport facility to their customers or he has to pay GST on the entire amount received from his customers without deducting the commission.</li> <li>2) What is the rate of tax payable?</li> </ol> </li> </ul>
<b>HELD</b>
<ul style="list-style-type: none"> <li>• The applicant is registered with GST as a service provider.</li> <li>• The applicant is issuing lorry receipts under the name &amp; style M/s Chitra Transport, containing details of GST registration, truck number, date of issue of LR, consigner name and consignee name with address, nature of the goods for transport, invoice issued by the consigner, weight, freight charges and also mentions who has to discharge service tax.</li> <li>• Therefore, it is clear that the applicant is issuing consignment note and is providing transport service and is the "Goods Transport Agency" within the definition of notification no.12/2017-central Tax (Rate) dated 28.06.2017.</li> <li>• Tax on the Transport of Goods by Road services (GTA service) rendered by the applicant to any customers registered under GST and located in the taxable territory, unless exempted under the notification no. 12/2017 CT (Rate) dated 28.06.2017, is payable by the recipients of the service under reverse charge mechanism (RCM).</li> <li>• The rate of tax on the GTA of tax on GTA services is 5% (2.5% CGST+ 2.5% SGST) subject to the conditions as prescribed. In case the said conditions are not satisfied, the rate of GST is 12% (6% CGST + 6% SGST) and the applicant being the provider of Goods Transport Agency service has to pay the said tax.</li> <li>• In case of supporting services in transport provided by the applicant the rate of GST is 18% (9% CGST + 9% SGST).</li> </ul>



- Where GST is payable under reverse charge or payable under forward charge, the profit i.e. Commission earned by procuring/obtaining trucks from the owners is not taxable in the hands of GTA (Goods Transport Agency).

## 10. Whether supply under 3 different contracts can be considered as composite supply

Applicant	<b>M/s McNally Bharat Engineering Company Limited</b>
Journal of Publication	AAR no. 21/AP/GST/2019
Date of Ruling	27-May-2019
Ruling Authority	<b>The Assistant Commissioner of State Tax, Steel Plant Circle, Vishakhapatnam Division</b>

<b>FACTS</b>
<ul style="list-style-type: none"> <li>• The applicant has entered into three contracts under Pre-GST regime, namely Supply Contract, Erection Contract and Operation &amp; Maintenance Contract for the purpose of establishment and Operation &amp; Maintenance of 100MW grid connected Solar PV Project.</li> <li>• Consideration for each contract is mentioned separately under the respective contracts.</li> <li>• The value of consideration involved in the Supply contract i.e. value of material is predominant, and is higher than the consideration offered for providing services under Erection contract and the Operation &amp; Maintenance contract.</li> </ul>
<b>ISSUE</b>
<ul style="list-style-type: none"> <li>• Whether the activities carried out by the applicant under all 3 contracts entered for establishment of Solar PV Power Project can be treated as Composite Supply?</li> <li>• If yes, whether for the said supply GST shall be paid at the rate of 5%?</li> <li>• If not, whether GST can be paid on value relating to supply of solar modules alone at 5%?</li> </ul>
<b>HELD</b>
<ul style="list-style-type: none"> <li>• In the present case, the applicant received the contracts for providing the design, procurement, supply, installation, testing &amp; commissioning and the operation &amp; maintenance of the Solar PV Plant along with grid connecting system.</li> <li>• There is both supply of goods and services in the case as per agreement and they are naturally bundled as a package.</li> <li>• Therefore the contention of the applicant, that it's a composite supply stands valid.</li> <li>• At the same time, the said composite supply falls under the ambit of '<b>works contract</b>' and clause 6 of the schedule II of the GST Act states that works contract as defined in clause(119) of section 2 shall be treated as <b>supply of services</b></li> <li>• It is classified under heading 9954, entry no. (ii) of S. No. 3 of the table of notification no. 11/2017 - Central Tax (Rate), and the applicable rate of tax is 18% (9% CGST, (% SGST)</li> <li>• The third question finds no relevance in context of negation of the same in earlier question</li> </ul>