



3/5/2019

GST Expertise Indirect Tax Updates

GST Expertise Weekly Indirect Tax Updates

❖ Quick Snapshot of the GST Updates issued by CBIC till 30th April, 2019

A	<u>Notifications-</u>
1	Government puts restriction on furnishing information in part-A of the E-way bill for non-filers of returns by notifying the provisions of Rule 138E of the CGST Rules w.e.f 21st June, 2019
2	CBIC issues procedure for filing returns for Composition tax payers, now required to file GSTR-4 annually and CMP-08 quarterly.
B	<u>Circulars-</u>
1	CBIC's clarification in respect of utilization of input tax credit (ITC) under newly inserted Rule 88A, ITC of IGST can be claimed in any manner in respect of liability of CGST & SGST
2	CBIC grants one time opportunity to apply for revocation of cancellation of registration on or before the 22nd July, 2019 for the specified class of persons for whom cancellation order has been passed up to 31st March, 2019
C	<u>Case Laws-</u>
1	Telangana HC denies bail in case involving fraudulent ITC claim of Rs. 225 crores on bogus trading
2	Madras HC rejects anticipatory bail application for alleged offence of circular trading & false E-way bills
3	Punjab & Haryana HC disposes writ, directs revenue to pass speaking order w.r.t. RFD-01 for ITC refund claim filed online by ADP manufacturer
D	<u>Advance Rulings-</u>
1	Uttarakhand AAR: Transfer of business as 'going concern' exempt from GST; Relies on internationally accepted His Majesty Revenue & Customs (HMRC) guidelines
2	Rajasthan AAR: Dead rent' payable to Govt. towards transfer of mineral rights, taxable at 18% under RCM
3	Rajasthan AAR: Activity of O&M of Fluoride Control Project constitutes 'Works Contract', taxable at 12%
4	Rajasthan AAR: Classifies 'Natural Calcite Powder' under HSN 25309030 attracting 5% GST Rate
5	Rajasthan AAR: Pure Services received by local authority attract Nil Rate, No TDS

GST Expertise Weekly Indirect Tax Updates

6	Chhattisgarh AAR: Diesel supplied by recipient includible in total freight cost for discharging GST
7	Chhattisgarh AAR: Hostel accommodation service by charitable trust charging below Rs. 1000 per day, exempt
8	Rajasthan AAR: Works contract undertaken for Nuclear Fuel Complex, a Govt. entity, taxable at 18%
E	<u>GST News & Legal Updates</u>
1	National Informatics Centre (NIC) issues forthcoming changes in E-way bill system
2	NAA upholds profiteering against 'snacks-supplier' for charging GST despite foregoing 'brand-name' rights

GST Expertise Weekly Indirect Tax Updates

❖ LEGAL UPDATES-

✚ Notifications-

1. **CBIC seeks to notify the provisions of rule 138E of the CGST Rules w.e.f 21st June, 2019 wherein restriction on furnishing information has been imposed on non- filers of returns-**

CBIC has notified the provisions of Rule 138E of the CGST Rules, 2017 vide notification no. 22/2019- Central Tax dated 23rd April, 2019. The said rule states that no person ((including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in **PART A of FORM GST EWB- 01** in respect of a registered person, whether as a supplier or a recipient, who—

(a) being a person paying tax under section 10, has not furnished the returns for two consecutive tax periods; or

(b) being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of two months

The aforesaid rule shall be applicable w.e.f. 21st June, 2019.

[\(Click here to read the Notification No. 22/2019-Central Tax dated April 23, 2019\)](#)

2. **Amendment in rule 23 of the CGST Rules, 2017 relating to revocation of cancellation of registration** CBIC has amended Rule 23 which earlier requires the filing of the returns before applying for the revocation application, the same was not possible due to registration becoming ineffective.

A. Wherein the Cancellation was done prospective effect

In case an order for revocation of cancellation has been passed, all the returns from the date of order of cancellation of registration till the date of order of revocation of cancellation of registration should be filed within a period of 30 days from the date of order of revocation.

B. Wherein the cancellation was done with retroactive effect

Where the registration is cancelled with retrospective effect, then all the returns due from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of 30 days from the date of order of revocation.

GST Expertise Weekly Indirect Tax Updates

The amendment now allows time up to 30 days from the order of revocation for filing of the returns which were earlier not practically feasible to file before applying for revocation application.

[\(Click here to read the Notification No. 20/2019-Central Tax dated April 23, 2019\)](#)

3. Seeks to notify procedure for quarterly tax payment and annual filing of return for taxpayers availing the benefit of Notification No. 02/2019– Central Tax (Rate), dated the 7th March, 2019

Government has notified the procedure for filing returns (quarterly as well as annually) in respect of Composition dealers who were given option to opt for composition scheme w.e.f. 1st April, 2019 subject to the prescribed conditions given in the notification issued in this behalf.

- The said persons shall furnish a statement, **every quarter** or, as the case may be, part thereof containing the details of payment of self-assessed tax in **FORM GST CMP-08** of the CGST Rules, 2017, till the 18th day of the month succeeding such quarter.
- The said persons shall **furnish a return for every financial year** or, as the case may be, part thereof in **FORM GSTR-4** of the Central Goods and Services Tax Rules, 2017, on or before the 30th day of April following the end of such financial year.

The registered persons paying tax by availing the benefit of the said notification, in respect of the period for which he has availed the said benefit, shall be deemed to have complied with the provisions of section 37 and section 39 of the said Act if they have furnished FORM GST CMP-08 and FORM GSTR-4.

Note- Above amendment applies to such Service Providers who opts to pay tax under Composition Scheme (Turnover upto INR 50 lakhs, Rate - 6%, No Inter-State supplies.

[\(Click here to read the Notification No. 21/2019-Central Tax dated April 23, 2019\)](#)

4. Seeks to make Third amendment, 2019 to the CGST Rules.

The Government, by virtue of Notification No. 20/2019, has amended the CGST Rules, 2017 (called as third amendment, 2019 to the CGST Rules) to bring in line with the various notifications and circulars issued in respect of composition dealers. The said notification inserts paragraphs to the Rule 62 (Form and manner of submission of quarterly return by the composition supplier) regarding the forms CMP-08 and GSTR-4 required to be furnished by such dealers quarterly and annually respectively. This notification also notifies the Form CMP-08 (quarterly return for composition scheme holders)

[\(Click here to read the Notification No. 20/2019-Central Tax dated April 23, 2019\)](#)

GST Expertise Weekly Indirect Tax Updates

Circulars-

1. CBIC's clarification in respect of utilization of input tax credit (ITC) under newly inserted Rule 88A

CBIC issues clarification in respect of utilization of input tax credit (ITC) under GST after issuance of the newly inserted rule 88A in the CGST Rule, 2017; Explains that ITC of IGST can be utilized towards the payment of Central tax and State tax or Union territory tax, in any order/proportion: However, clarifies that this is subject to the condition that the entire ITC on account of IGST is completely exhausted first before the credit on account of Central tax or State / Union territory tax is utilized; Further, taxpayers may continue to utilize their ITC as per the functionality available on common portal till new order of utilization as per newly inserted Rule 88A of the CGST Rules is implemented

[\(Click here to read the Circular No. 98/17/2019-GST dated April 23, 2019\)](#)

2. CBIC's clarification regarding filing of application for revocation of cancellation of registration on or before the 22nd July, 2019 for the specified class of persons for whom cancellation order has been passed up to 31st March, 2019

Prospective effect Revocation

CBIC issues clarification regarding filing of application for revocation of cancellation of registration; Explains that, where the registration has been cancelled w.e.f. date of order of cancellation of registration, all returns due till the date are required to be furnished before application for revocation can be filed; Such returns have to be furnished within a period of 30 days from the date of the order of revocation;

Retroactive effect Revocation

Further, in cases where the registration has been cancelled with retrospective effect, all returns relating to the period from effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration.

[\(Click here to read the Circular No. 99/18/2019-GST dated April 23, 2019\)](#)

Removal of difficulty order-

1. **CBIC grants one-time opportunity to apply for revocation of cancellation of registration**

CBIC grants one-time opportunity to persons whose registrations have been cancelled u/s 29(2) of CGST Act, 2017 and could not reply to notice served u/s 169(1) and for whom cancellation order has been passed up to March 31, 2019, to apply for revocation of cancellation of registration on or before July 22, 2019.

This extension of time limit was required as a number of registrations were cancelled due to non-filing of returns where the notice for cancellation of registration were served online, and such assesses were not aware of the fact of such notice being issued online. Subsequently on filing of the returns, it was noticed that the time limit for applying for revocation has lapsed. With this order, such assesses would now be able to file for revocation of cancellation up to the extended time limit and get their registration active. **However, this extension is only w.r.t. orders passed up to 31 March 2019 and that too applicable only in cases where no reply has been filed against the notice.** Hence, in cases where the notice for cancellation has been served other than by way of e-mail or making available at portal (i.e. say by post, etc.) and where reply has been filed to the notice, the extension would not be applicable. Further, for the orders passed after such date, the application for revocation of cancellation shall be filed within 30 days of service of order in terms of section 30(1) of the CGST Act, 2017 or file an appeal within the time limits u/s 107(1) of the CGST Act, 2017

[\(Click here to read the Removal of difficulty Order No. 05/2019-CGST dated April 23, 2019\)](#)

Writ Petitions

1. Telangana HC denies bail in case involving fraudulent ITC claim of Rs. 225 crores on bogus trading

Facts of the case-

The assessee were alleged of circular trading by claiming input tax credit on materials never purchased and passing on such input tax credit to companies to whom they never sold any goods. Revenue estimated that fake GST invoices were issued to the total value of about Rs. 1,289 crores and the benefit of wrongful ITC passed on by the petitioners is to the tune of about Rs.225 crores.

Held by HC-

HC rejected the argument of assessee's that there cannot be an arrest even before adjudication or assessment, finding that issue of invoices or bills without supply of goods and the availing of ITC by using such invoices or bills, are made offences under clauses (b) and (c) of sub-Section (1) of Section 132 of the CGST Act.

HC dismisses batch of writ petitions, denies bail against arrest ordered u/s 69 (1) of CGST Act, 2017 and rejects assessee's plea that, there is no necessity to arrest a person for alleged commission of an offence which is compoundable, opines that even we allow the assessee to apply for compounding, they may not have a meeting point with the Department as liability arising out of alleged actions is so huge

(Source: TS-274-HC-2019(TELandAP)-NT)

2. Madras HC rejects anticipatory bail application for alleged offence of circular trading & false E-way bills

GST Expertise Weekly Indirect Tax Updates

Facts of the case-

Petitioners, husband and wife were running several in which they are proprietor, partner and Directors and the entities were engaged in the supply of Iron and Steel by way of sales/purchases. All the entities are registered under CGST/TNGST Act.

Revenue, pursuant to an audit conducted u/s 67 of TNGST Act, found that huge ITC availed by different entities was passed on/distributed amongst various entities fraudulently and upon verification of online E-way bills, found that movement of goods was false. Accordingly, summons was issued for enquiry.

Held by HC-

HC rejects anticipatory bail petitions in respect of alleged offence punishable u/s 132 of CGST Act, 2017, while noticing that outward and inward supply of goods were fraudulently shown without actual movement of goods on the basis of false and bogus E-way bills.

Rejects Petitioner's argument that it was regularly filing returns and that department should not resort to criminal prosecution and arrest without conducting a preliminary enquiry by putting it on notice; Further explains that, "Section 132 of the Act will apply with all force the moment an invoice or a bill is issued without movement of goods or Input Tax Credit has been availed wrongly".

(Source: TS-275-HC-2019(MAD)-NT)

3. Punjab & Haryana HC disposes writ, directs revenue to pass speaking order w.r.t. ITC refund claim of ADP manufacturer

Facts of the Case-

The petitioner is a manufacturer and seller of automatic data processing (ADP) machines and units thereof filed an online application in respect of refund of excess Input Tax Credit (ITC) of Rs. 3.51 crores. Petitioner filed its GSTR-3B for the month of July 2017, August 2017 and September 2017 and applied through online applications in RFD-01A as it had excess ITC available after adjusting output tax liability.

Issue under consideration-

Despite submission of documents for GST refund physically with Assistant Commissioner and through email, petitioner was informed that refund application was yet to be processed by State GST Authorities

GST Expertise Weekly Indirect Tax Updates

Held by HC-

Punjab and Haryana HC disposes petition directing the Revenue to take a decision on the online application moved by the petitioner. Directs Revenue to pass a speaking order after affording an opportunity for hearing and release the refund amount in case the petitioner is found entitled to the same

(Source: TS-269-HC-2019(P and H)-NT)

Advance Rulings-

1. Uttarakhand AAR: Transfer of business as 'going concern' exempt from GST; Relies on internationally accepted His Majesty Revenue & Customs (HMRC) guidelines

Facts of the Case-

The Applicant "M/s Innovative Textile Ltd., Uttarakhand is engaged in supply of various textile yarns and fabrics. The applicant intends to sell their ongoing business of manufacturing, marketing and sale of textile yarn and fabrics in the form of business transfer as a going concern with all assets and liabilities on a slump sale basis as a whole.

Issue under consideration-

Whether "Business Transfer Agreement" as a going concern on slump sale basis is exempted from the levy of GST in terms of serial no. 2 of the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 (herein after referred to as "said notification").

Ruling-

Uttarakhand AAR holds that applicant's transfer of business as 'Going concern' on slump sale basis, exempted from GST in terms of aforesaid Notification. AAR explains that transfer of business as a going concern is the sale of a business including assets and in terms of financial transactions 'going concern' means the business is live /operating and has all parts and features necessary to keep it in operation.

(Source- TS-259-AAR-2019-NT)

GST Expertise Weekly Indirect Tax Updates

2. Rajasthan AAR: Dead rent' payable to Govt. towards transfer of mineral rights, taxable at 18% under RCM

Facts of the Case-

The Applicant "M/s Wolkem Industries Limited, Rajasthan is engaged in business of mining of Wollastonite, Calcite, Feldspar and Quartz at Sirohi, Rajasthan. The said products are classifiable under Tariff Chapter 25 and taxable at the rate of 5% under GST. The applicant has been granted a mining lease for extracting Wollastonite, Calcite, Feldspar and Quartz at Sirohi, Rajasthan by the State Government on various T&C as per lease deed. As per t&c Applicant is required to pay Dead Rent/ Royalty / Surface rent as per rate notified by State Government from time to time.

Issue under consideration-

1. What is the classification of service provided in accordance with Notification No. 11/2017 CT (Rate) dated 28.06.2017 read with annexure attached to it, by the state of Rajasthan to M/s Wolkem Industries for which royalty is being paid?
2. Whether said service can be classified under 9973 specifically under 997337 as licensing services for the right to use minerals including its exploration and evaluation or as any other service?
3. What is the rate of GST on given services provided by the state of Rajasthan to M/s Wolkem Industries Limited for which royalty is being paid?

Ruling-

1. The activity undertaken by the applicant is classifiable under Heading 9973 (Leasing or Rental Services, with or without operator), as mentioned in the annexure at serial no 257 (Licensing services for the right to use minerals including its exploration and evaluation) sub heading 997337 of notification no 11/2017-CT (Rate) dated 28/06/2017. The applicant is liable to discharge tax liability under Reverse Charge Mechanism vide NN 13/2017 CT (Rate), dated 28/06/2017 of CGST Act 2017.
2. The activity undertaken by applicant attracts 18% GST (CGST 9% and SGST 9%)

(Source- TS-257-AAR-2019-NT)

3. Rajasthan AAR: Activity of O&M of Fluoride Control Project constitutes 'Works Contract', taxable at 12%

Facts of the Case-

GST Expertise Weekly Indirect Tax Updates

The Applicant "M/s G A Infra Pvt. Ltd., Jaipur is engaged in providing comprehensive water services to the clients who may be both private clients as well as governmental. Currently the applicant is in process for bidding of tender floated by the PHED, a unit of Government of Rajasthan for designing, providing, installation, commissioning, operation and maintenance of Solar energy based bore well water pumping systems, Reverse osmosis plant and operation and maintenance of Fluoride Control Projection ESCO and O & M contract.

Issue under consideration-

Whether the activity of O & M of fluoride control project on ESCO Model and O & M work supply of goods or supply of services and what shall be the rate of GST on it?

Ruling-

The activity of O & M of fluoride Control Project on ESCO Model and O & M work by the applicant is being undertaken for a government department. In this activity of Composite Supply of goods and services the applicability of GST will be as under:-

1. Composite supply of goods and services where supply of goods is below 25% out of total value of supply then GST will be Nil.
2. Composite supply of goods and services where supply of goods is more than 25% of total value of supply than GST will be @ 12% (CGST 6% and SGST 6%)

(Source- TS-256-AAR-2019-NT)

4. Rajasthan AAR: Classifies 'Natural Calcite Powder' under HSN 25309030 attracting 5% GST Rate

Facts of the Case-

The Applicant "M/s Mohan Infinity, Jaipur is an unregistered person engaged as a trader in Natural Calcite Powder and minerals. The issues raised by applicant is neither pending for proceedings nor proceedings were passed by any authority.

Issue under consideration-

What is the GST Rate on Natural Calcite Powder?

Ruling-

The Natural Calcite Powder is classifiable under HSN code 25309030 and attracts GST @5%

GST Expertise Weekly Indirect Tax Updates

(Source- TS-251-AAR-2019-NT)

5. Rajasthan AAR: Pure Services received by local authority attract Nil Rate, No TDS

Facts of the Case-

The Applicant "Municipal Corporation, Pratapgarh district, is engaged in receiving various services from various contractors for cleaning of road, garden, toilets and waste collection. Most of the services received under article 243W of Constitution of India but these services are on rate basis. Applicant is not able to clarify whether the above mentioned services received on rate basis mentioned in article 243W are taxable or exempted.

Issue under consideration-

1. How the provisions of GST TDS applicable on the services received for providing outward supply of cleaning of road, garden, toilets and waste collection?
2. How the provisions of GST TDS applicable on toilets and waste collection services?
3. How the provisions of GST TDS applicable in case of receipt of skilled labour, unskilled labour and vehicle drivers from various contractors as per need?
4. How the provisions of GST TDS applicable on upkeep and maintenance of parks, gardens by municipal corporation?

Ruling-

1. Pure services will attract nil rate of duty and provisions of GST TDS will not be applicable.
2. In composite supply of goods and services where supply of goods is not more than 25% of total value of supply, will attract nil rate of duty and provisions of GST TDS will not be applicable.
3. In composite supply of goods and services whose supply of goods is more than 25% of the total value of supply, will attract GST @ 12% (SGST@6% and CGST @6%) if the activity falls under purview of Serial No-3 of notification No. 11/2017 (CT Rate) dated 28/06/2017 as amended from time to time and if not, then GST @ 18% will be applicable. Provisions of GST TDS will apply as the activity in this case is taxable.

(Source- TS-254-AAR-2019-NT)

6. Chhattisgarh AAR: Diesel supplied by recipient includible in total freight cost for discharging GST

GST Expertise Weekly Indirect Tax Updates

Facts of the Case-

The Applicant "M/s Shri Navodit Agarwal, Pithora is a transporter in few cement companies and is engaged in transporting Cement/Clinkers of shree Raipur Cement, Baloda Bazaar. Based on oral agreement between aforesaid parties, Shree Raipur Cement proposed that while transporting their cement/ clinkers, diesel required would be provided by Shree Raipur Cement.

Issue under consideration-

Do we need to charge GST on freight amount excluding diesel cost or on total amount which is inclusive of diesel cost?

Ruling-

In confirmation to the views expressed by the applicant, applicant is required to charge GST upon M/s Shree Raipur Cement, CG on the total amount including the cost of diesel i.e. on the total freight amount inclusive of the cost of diesel so provided by the service recipient i.e. M/s Raipur Cements.

(Source- TS-253-AAR-2019-NT)

7. Chhattisgarh AAR: Hostel accommodation service by charitable trust charging below Rs. 1000 per day, exempt

Facts of the Case-

The Applicant "M/s Shri Kamal Kishor Agarwal for Ramnath Bhimsen Charitable Trust, Chhattisgarh is running Girl's Hostel in the name of Shree Ramesh Sewa Sadan and Godavari Sewa Sadan. Hostel is engaged in providing basic facilities which are required to stay and to study which will include well-furnished residence, round the clock security, homely ambience, nutritious food, ample parking space etc. and in consideration, hostel is charging a nominal lump sum fee of Rs. 6000 per month per boarder.

Issue under consideration-

1. Whether the activity of providing the hostel on rent to various boarder is exempted? If it is exempted in such case, under which exemption notification the same is exempted?

GST Expertise Weekly Indirect Tax Updates

2. Whether the activity of providing the hostel on rent to various boarder is taxable? If it is taxable, in such case, under which service access code the same is taxable?

Ruling-

The activity of providing accommodation services by the applicant in their hostel for which the applicant is collecting an amount below the threshold limit of Rs. 1000/- per day and no other charges are being collected for providing other facilities/ services therein viz. canteen food, parking space for vehicles, coaching, library, entertainment etc. merits exemption as stipulated under Notification No. 12/2017- state tax (rate) No. F-10-43/2017/CT/v (80), Naya Raipur dated 28.06.2017 under serial no 14, Chapter 9963. This amount received for such supply by the applicant falling under tariff heading 9963 qualifies being treated as nil rate tax exempt supply.

(Source- TS-252-AAR-2019-NT)

8. **Rajasthan AAR: Works contract undertaken for Nuclear Fuel Complex, a Govt. entity, taxable at 18%**

Facts of the Case-

The Applicant "M/s Tata Projects Limited, Rajasthan had received contract from Nuclear Fuel Complex vide contract no T.N. No. C-NFC/1113/2015 dated 10/05/2017. The contract is "Contract for Civil, Structural and PH Works for plant and Non-Plant buildings along with other allied structures for PRR & ZFF facilities at Nuclear Fuel Complex.

Issue under consideration-

What is the GST rate of above mentioned contract?

Ruling-

GST rate applicable on the project undertaken by the applicant is 18% (CGST 9% and SGST 9%)

(Source- TS-255-AAR-2019-NT)

9. **Maharashtra AAAR: DFIA akin to duty credit scrips, sale/purchase thereof not liable to GST**

Facts of the case-

GST Expertise Weekly Indirect Tax Updates

The Appellant “SPACEAGE SYNTEX PVT. LTD.” is in practice of sale/ purchase of DFIA (Duty free Import Authorization). Appellant initially has filed an application under section 97 of Central Goods and Service Tax Act, 2017 that whether GST is applicable on the sale/ purchase of DFIA. Whereas same affirmed by AAR. Appellant again filed an Appeal under Section 100 of Central Goods and Service Tax Act, 2017.

Issue under consideration-

Whether GST livable on Sale and/or purchase of DFIA.

Ruling-

AAAR set aside the ruling pronounced by the AAR and hold that the No GST is applicable on the sale or purchase of DFIA, as provided in Sr. 122A of the Notification 02/2017-C.T. (Rate) dated 28.06.2017 as amended by the Notification No. 35/2017-C.T. (Rate) dated 13.10.2017.

(Source- TS-262-AAAR-2019-NT)

10. Uttar Pradesh AAAR- ‘Breaded Cheese’ classified as ‘cheese’ under HSN 0406, taxable at 12%

Facts of Cases-

M/s Savencia Fromage and Dairy India Private limited, A-41, Hoseiry Complex, Phase-2 Extension, Noida, Uttar Pradesh, 201305(herein after called applicant) is registered assessee under GST. Applicant intends to manufacture ‘Breaded Cheese’.

Issue-

- Whether the product of appellant is classified under HSN 0406 as claimed by them or the HSN 2106.
- Whether the product is subject to CGST and SGST at the rate of 6% each under the S. no. 13 of the Schedule –II appended to the Notification No. 1/2017- Central Tax (Rate) dated June 28, 2017 and Notification KA.NI. -2-836/XI-9(47)/17-UP Act 2017-order (o6)-2017dated June 30.2017.

Ruling-

- Held that Goods under reference are classified under S no. 13of Schedule II of Notification
- 1/2017of Central tax (Rate), vide Heading 0406and taxable @12% GST (6% CGST+ 6%SGST).

GST Expertise Weekly Indirect Tax Updates

(Source-TS-265-AAAR-2019-NT)

11. Maharashtra AAR- Maize which are used as Sweet corn or Popcorn classified under HSN 2008.

Facts of Case-

The Appellant “**SHAH NANJI NAGSI EXPORTS PRIVATE LIMITED**” engaged into import of Maize of popcorn Maize is fumigated and cleaned prior to packing. The processed clean popcorn maize, along with edible oil and salt is mixed together and packed in a pouch of fixed weight of say 350 grams, which are sold to restaurant owners and small popcorn vendors, who ultimately prepares ready to eat instant popcorn for customers.

Issue-

What will be the correct HSN code and consequently rate of GST applicable on “Ready to cook popcorn premix i.e. Popcorn Maize with edible oil and salt”, sold in retail pack size ranging from 30 grams to 350 grams.

Ruling-

The correct HSN code would be 2008 19 90.

12. Karnataka AAAR-IIM qualifies as ‘educational institute’, eligible for exemption for period Jan-Dec 2018.

Facts of the case-

The Appellant “**Indian Institute of Management, Bangalore**” was registered as society with register society and is recognized as a premier institute of higher learning and seat of academic excellence in the field of management. Consequent to the passing of the Indian institutes of Management Act, 2017 which received presidential assent on 31st December 2017 and came into force with effect from 31.01.2018, IIMB is now a body corporate as per Section 4 of the said Act.

GST Expertise Weekly Indirect Tax Updates

Issue-

- I. Whether the long duration post graduate diploma/degree granting programs offered by the IIMB, other than those specifically mentioned in Sl. No. 67 of Notification No 12/2017 CT(Rate) dated 28th June 2017 as amended by Notification No 02/2018 dated 29 January 2018, are exempted from GST output liability.
- II. Whether supply of online educational journals or periodicals to the IIMB is exempted from reverse charge liability of GST under SI.NO 66 of Notification No 12/2017 CT(Rate) dated 28th June 2017 as amended by Notification No 02/2018 dated 25th Jan 2018, being education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force in the light of the enactment of the IIM 2017?

Rulings-

AAAR set aside the AAR, and confirm the Appellant contention.

(Source- TS-947-AAAR-2018-NT)

13. Maharashtra AAR- Composite supply as defined under section 2(30) of the GST Act with supply of LED Dimmable Street lights/ fixtures as principle supply - the supply of Dimmable Street lights/fixtures constitute principle supply.

Facts of the case-

The Appellant "Ujwal Pune Limited ('UPL')", a subsidiary of Tata Projects Limited, is a company incorporated under the provisions of the Companies Act, 2013. Appellant is awarded contract from **The Pune Municipal Corporation** (PMC) which is the civic body established on 15 February 1950. Appellant shall carry out a proper survey of all roads where the Dimmable LED Light Fixtures are to be installed within 3 (three) months period after award of work order.

Issue-

- I. The nature of Services provided under the Contract whether covered under Si.no. 3(vi)(a) of notification no. 11/2017 - Central Tax (Rate) dt. 28th June 2017 amended with notification no. 24/2017-Central Tax (Rate) dt 21.09.2017 and further amended with notification no. 31/2017 Central Tax (Rate) dt 13.10.2017 and notification no. 17/2018 dt.26.07.2018?
- II. What is the Rate of GST applicable for the Project?

GST Expertise Weekly Indirect Tax Updates

Rulings –

- I. the transaction in question satisfy the ingredient of composite supply as defined under section 2(30) of the GST Act with supply of LED Dimmable Street lights/ fixtures as principle supply - the supply of Dimmable Street lights/fixtures constitute principle supply.
- II. GST Rate applicable to the applicant is 12%

14. West Bengal AAR: Construction bundled with other services constitutes ‘Composite supply’, taxable under GST

Facts of the Case-

The Applicant is a joint venture of The West Bengal Housing Board and The Peerless General Finance and Investment Company Limited for developing real estate projects in West Bengal. Applicant is engaged in developing a residential housing project named ‘Avidipta II’ and supplying construction service to the recipients for possession of dwelling units in the year 2023. In addition to the construction service, the Applicant provides services like preferential location service, which includes services of floor rise and directional advantage.

Issue under consideration-

- (i) Whether the supply of these services constitutes a composite supply with construction service as the principal supply?
- (ii) If answer to above question is affirmative, then whether abatement is applicable on the entire value of the composite supply?

Ruling-

The Applicant is providing service of construction of a dwelling unit in a residential complex, bundled with services relating to the preferential location of the unit and right to use car parking space and common areas and facilities. It is a composite supply, construction service being the principal supply. Entire value of the composite supply is, therefore, to be treated, for the purpose of taxation, as supply of construction service, taxable under Sl. No. 3 (i) read with Paragraph 2 of Notification No 11/2017 - CT (Rate) dated 28/06/2017 (corresponding State Notification No. 1135-FT dated 28/06/2017), as amended from time to time.

(Source- TS-286-AAR-2019-NT)

GST Latest news and updates

- **National Informatics Centre (NIC) issues forthcoming changes in E-way bill system**

Govt. introduces new enhancements in E-Way Bill (EWB) generation form; Releases a detailed note to communicate the tax payers and transporters the latest changes with screen shots to enable them to generate the e-way bill with ease;

The enhancements include

- (i) **Auto calculation of distance based on PIN Codes for generation of e-Way Bill-** New e-Way bill system has enhanced with auto calculation of distance between the source and destination, based on the PIN Codes. The e-waybill system will calculate and display the estimated motorable distance between the supplier and recipient addresses. User is allowed to enter the actual distance upto 10% more than the auto calculated distance displayed. For example, if the system has displayed the distance between Place A and B, based on the PIN Codes, as 655 KMs, then the user is allowed to enter the actual distance covered up to 720KMs (655KMs + 65KMs).
- (ii) **Knowing the distance between two PIN codes-** Another way for the taxpayer to know the distance between source and destination is to go to the e-way bill system homepage (<http://ewaybillgst.gov.in>). Place the cursor on "Search" to view the various options available and select "PIN to PIN Distance".
- (iii) **Blocking the generation of multiple e-Way Bills on one Invoice/Document-** Based on the representation received by the various stake holders, the government has decided not to permit generation of multiple e-way bills based on one invoice, by any party - consignor, consignee and transporter. One Invoice, One E-Way Bill policy will be followed.
- (iv) **Extension of e-Way Bill in case the consignment is in Transit/Movement-** To avail this option one must go to the form of extension validity and choose "Yes" for extension in the e-Way Bill. Transportation Details (Part -B) will appear in the form where the user needs to select the position of the consignment as in Transit / In Movement.

GST Expertise Weekly Indirect Tax Updates

(v) **Report on list of e-Way Bills about to expire-** Taxpayers or transporters can now view the list of e-Way Bills about to expire in a period of 4 days (From current date (T) then (T)-1, (T)+1, (T)+2). They can keep track of expiry dates for each of the consignments generated. The user can utilize the report to analyze the data and ensure that that the goods reach the destination within validity time.

- **NAA upholds profiteering against 'snacks-supplier' for charging GST despite foregoing 'brand-name' rights**

National Anti-Profiteering Authority (NAA) upholds a case of profiteering u/s 171 of CGST Act, 2017 against supplier of snacks (i.e. namkeen, bhujia, mixture, etc.) for the period November 27, 2017 to December 31, 2017 while noting that GST was charged at 5% despite reduction in tax-rate to NIL vide Notification No. 34/2017-Central Tax (Rate) dated October 13, 2017; Notes that Respondent was charging GST at 12% in terms of Notification No. 1/2017 dated June 28, 2017 on supply of products covered under HSN Code 21069099, notes that products were sold in unit container using an unregistered brand name whereas an affidavit was filed on November 24, 2017 with authorities foregoing his actionable claim or enforceable rights on his brand name, voluntarily; Perusing invoices, remarks that, Respondent increased its base prices despite reduction in tax rate from 12% to NIL vide Notification dated October 13, 2017 and charged GST at 5% although no GST was to be charged as Respondent had foregone his claim on his brand name; Rejects Respondent's plea that changes bought about in the rate of tax were neither communicated to him by local GST officers nor any Trade Notice or Press Release, remarks that "ordinary consumers can not be allowed to be denied the benefit of tax reduction, granted by both the Central and the State Govt. out of their own tax revenue, due to the ignorance of the Respondent";

Explaining that benefit has been meticulously been computed by DGAP and can be relied upon, directs Respondent to deposit profiteered amount along with 18% interest in Central Consumer Welfare Fund (CWF) and Kerala State CWF within 3 months, and also imposes penalty under Rule 133(3) of CGST Rules, 2017

GST Expertise Weekly Indirect Tax Updates

DISCLAIMER:

The information contained in this communication is intended solely for the use of the individual or entity to whom it is addressed and others authorized to receive it. Any action based on content in this communication shall be at the sole risk, responsibility and liability of the individual taking such action. These updates shall not under any circumstance be construed as any kind of professional advisor opinion and we expressly disclaim any and all liability for any harm, loss or damage, including without limitation, indirect, consequential, special, incidental or punitive damages resulting from or caused due to your reliance and actions/inactions on the basis of this communication.

GST Expertise Weekly Indirect Tax Updates

Our Leaders

Kapil Mahani
Leader
Indirect tax



Devan Gupta
Leader
Audit &
Assurance



Jai
Tahalani
Leader
Litigation



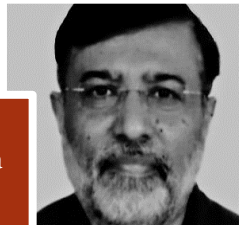
Arun Khetan
Leader
Foreign
Trade Policy



Arvind Modi
Indirect Tax
Jharkhand



Ajay
Mankotia
Leader
Direct tax



Ashish
Kumar
Partner
Mumbai



Naresh
Dhoot
Partner
Mumbai



Head office : Office no. 201 Aggarwal Chambers| CD Block, Pitam Pura| New Delhi
West India Office : 207, Apollo Complex, RK Singh marg, Parsi Panchayat Road, Andheri (E), Mumbai
East India Office : 2nd Floor, Samriddhi Building, Opposite Akash Aluminium, Lalji Hirji Road, Ranchi
South India Office : 208, Eldams Square, Second Floor, 167, Alwarpreet
International Office : UAE- Dubai- 35, Exchange Towers, 15th floor, Business Bay, UAE- Dubai
Website | India www.gstexpertise.com | UAE www.uaevatexpertise.com