



GST (Notifications, Circulars, other amendments and updates) in Quarter 3 2019

Summary of the Notifications issued- October, 2019 to December, 2019.

Notification No.	Date	Description
NN 44/2019- CT	09.10.2019	This notification prescribed the Due date for furnishing GSTR-3B along with payment of liability for the months of Oct 2019 to March 2020. Which is on or before 20 th day of the succeeding month.
NN 45/2019- CT	09.10.2019	The notification prescribes the due date to furnish GSTR-1 for the registered person having aggregate turnover of upto Rs.1.5 crore in the preceding financial year or the current financial year. Qtr – Oct 19-Dec 19 Due date-31st January 2020 Qtr – Jan 19-Mar 2020 Due date-30th April 2020
NN 46/2019- CT	09.10.2019	The notification extends the time limit to furnish GSTR-1 for the registered person having aggregate turnover of more than Rs.1.5 crore in the preceding financial year or the current financial year. GSTR-1 for each of the months of Oct 2019 to Mar 2020, can be filed till 11th day of the succeeding month.
NN 47/2019- CT	09.10.2019	By issuing this notification filing of GST Annual return for the financial year 2017-18 and 2018-19 has been made optional , if not already filed before the due date. The option is only for Small taxpayers. (Whose aggregate turnover in a financial year does not exceed Rs. 2 Crores) The notification also mentions that the said return shall be deemed to be furnished on due date if it not furnished before the due date. (this statement was necessary ,otherwise other sections of the Act would have given rise to new issues due to non filing of the Annual return <ul style="list-style-type: none">• like what would be Time limit for issuing of credit/debit notes then.• Period for Retention of books? – as Sec 36 of the CGST Act mentions period of retention of books as, until the expiry of 72 months from the due date of furnishing of annual return for the year.• Other Section in relation to ITC availment etc.)

NN 48/2019- CT	09.10.2019	<p>The notification provides for the extension of Due date to furnish GST Return by Registered person having principal place of business in State of Jammu & Kashmir and having Turnover exceeding Rs.1.5 Crores.</p> <table border="1" data-bbox="602 415 1414 558"> <thead> <tr> <th>From</th><th>Period</th><th>Due Date</th></tr> </thead> <tbody> <tr> <td>GSTR-1</td><td>Jul & Aug 2019</td><td>11.10.2019</td></tr> <tr> <td>GSTR-3B</td><td>Jul & Aug 2019</td><td>20.10.2019</td></tr> <tr> <td>GSTR-7</td><td>Jul & Aug 2019</td><td>10.20.2019</td></tr> </tbody> </table>	From	Period	Due Date	GSTR-1	Jul & Aug 2019	11.10.2019	GSTR-3B	Jul & Aug 2019	20.10.2019	GSTR-7	Jul & Aug 2019	10.20.2019
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GSTR-1	Jul & Aug 2019	11.10.2019												
GSTR-3B	Jul & Aug 2019	20.10.2019												
GSTR-7	Jul & Aug 2019	10.20.2019												
NN 49/2019- CT	09.10.2019	<p>This notification amends the CGST Rules. Also the notification contains one of the important amendment in relation to ITC.</p> <p>Insertion have been made in Rule 36(3) , the effect of this amendment being <u>setting up the upper limit /Cap for claiming the Input tax credit for every month.</u></p> <p>Maximum ITC that can be claimed in a month= Eligible credit available in GSTR-2A for the month + 20% of the eligible credit available in GSTR-2A for the month.</p> <p>That is to say, Credit can be claimed up to maximum of 120% of the “eligible credit” available in GSTR-2A for the month.</p> <p><u>Other important Amendments</u> are-</p> <p>a) <u>Explanation inserted to Rule 21A(3) [Suspension of registration]</u></p> <p>It was said in rule that Registered person whose registration has been suspended shall not make any taxable supply during such suspension and would not be required to file any return u/s 39</p> <p>The explanation clarifies the above text in bold as, the Registered person shall not issue Tax invoice and would not tax the outward supplies made by him during such suspension.</p> <p>b) <u>GSTR-3 not to be furnished if GSTR-3B is furnished</u>, rule 61 amended retrospectively from 1st July 2017.(i.e GSTR-3B can be considered as GSTR-3)</p> <p>c) <u>Form GST DRC-01A</u></p> <p>Part A- Before service of SCN (Show Cause Notice) u/s 73 or u/s 74, proper officer is required to provide details of any tax, interest and penalty ascertained by him in this part.</p> <p>Part B – The assessee would provide its reply. Like details of partial payment made or its desire to file any submission against the liability proposed.</p> <p>d) <u>TRANS-1/TRANS -2</u></p> <p>The commissioner on recommendation of council may extend the date of filing of the TRANS, which could not be filed because of technical difficulties on common portal. The dates may be extend as-</p> <p>For Trans-1 Not beyond 31st Dec 2019</p> <p>For Trans-2 Not beyond 31st Jan 2020</p>												

NN 50/2019- CT	24.10.2019	The due date for FORM GST CMP-08 quarterly return of Composition dealers has been extended from 18-Oct-19 to 22-Oct-19.																									
NN 51/2019- CT	31.10.2019	In accordance with Article 370, The territorial jurisdiction for the Commissioner of Jammu has been amended as the “Union territory of Jammu and Kashmir and Union territory of Ladakh”																									
NN 52/2019- CT to NN 55/2019- CT, and NN 57/2019- CT to NN 61/2019- CT	14.11.2019 and 26.11.2019	<p><u>Due dates for filing GSTR-1, GSTR-3B and GSTR-7 for the tax payers of Jammu & Kashmir, for the months Jul’19-Oct’19 has been extended to 30-Nov-19</u></p> <p>The Due dates for filing GST returns for the registered persons whose principal place of business is in the State of Jammu and Kashmir has been extend as per below table:</p> <table><tr><th>Notification</th><th>Refund</th><th>Related to</th><th>Period</th><th>Due Date</th></tr><tr><td>52/2019</td><td>GSTR-1 Quarterly</td><td>Persons with t/o < 1.5 Crs</td><td>Jul’19-Sep’19</td><td>30.11.2019</td></tr><tr><td>53/2019 & 57/2019 & 58/2019</td><td>GSTR-1_Monthly</td><td>Persons with t/o > 1.5 Crs</td><td>Jul’19-Oct’19</td><td>30.11.2019</td></tr><tr><td>54/2019 & 60/2019 & 61/2019</td><td>GSTR-3B_Monthly</td><td>All</td><td>Jul’19-Oct’19</td><td>30.11.2019</td></tr><tr><td>55/2019 & 59/2019</td><td>GSTR-7 Monthly</td><td>All TDS reg.ns</td><td>Jul’19-Oct’19</td><td>30.11.2019</td></tr></table>	Notification	Refund	Related to	Period	Due Date	52/2019	GSTR-1 Quarterly	Persons with t/o < 1.5 Crs	Jul’19-Sep’19	30.11.2019	53/2019 & 57/2019 & 58/2019	GSTR-1_Monthly	Persons with t/o > 1.5 Crs	Jul’19-Oct’19	30.11.2019	54/2019 & 60/2019 & 61/2019	GSTR-3B_Monthly	All	Jul’19-Oct’19	30.11.2019	55/2019 & 59/2019	GSTR-7 Monthly	All TDS reg.ns	Jul’19-Oct’19	30.11.2019
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NN 56/2019- CT	14.11.2019	<p><u>The forms for Annual return (GSTR-9) and Audit report (GSTR-9C) have been simplified by changing certain mandatory fields as optional</u></p> <p>i. Changes in GSTR-9</p> <p>General:</p> <ul style="list-style-type: none">The Part or Table headings, Field names and Instructions have been amended to make the forms suitable for FY 17-18 and also for FY 18-19 <p>Simplifications for FY 17-18 and FY 18-19:</p> <ul style="list-style-type: none"><u>Table 4 & 5 – Turnovers</u><ul style="list-style-type: none">In case the RP is unable to split the details as original amounts declared and adjustments made (credit/Debit notes, up/downward amendments), they can fill the net values in respective fields<u>Table 5D,E & F – Exempted/Ni-Rated/Non-GST</u><ul style="list-style-type: none">If the RP is unable to split the details among Exempted, Nil-rated and Non-GST supplies, entire amount can be disclosed under 5D – “Exempted”																									

		<ul style="list-style-type: none"> • <u>Table 6 – Input bifurcation</u> <ul style="list-style-type: none"> ○ If the RP is unable to split the total credit as Inputs/Input Services / Capital goods, then the entire amount can be disclosed as “Inputs” in respective tables • <u>Table 6C & 6D: RCM on supplies from Regd. & Unregd.</u> <ul style="list-style-type: none"> ○ If the RP is unable to split the details b/w RCM credit related to Inward supplies from regd. persons and unregistered persons, then the entire amount can be disclosed in 6D i.e. RCM on inward supplies from Regd. persons • <u>Table 7A to 7E: ITC reversals under different categories</u> <ul style="list-style-type: none"> ○ If the RP is unable to split the amount of credit reversals as per the given tables, entire amount can be disclosed as Other reversals. <p>However, Tran-1 and Tran-2 related reversals should be disclosed in the tables i.e. 7F & 7G.</p> • <u>Table 8:2A Reconciliation</u> <ul style="list-style-type: none"> ○ For FY 17-18 and FY 18-19, the details of the amounts specified / differences observed can be attached in PDF format as part of 9C. No CA signature required for this. • <u>For FY 17-18 and FY 18-19, following tables made optional.</u> <ul style="list-style-type: none"> ○ Table 12 & 13 – ITC Adjustments for current year in next FY ○ Table 15 – Particulars of Demands and Refunds ○ Table 16 – Supplies from Composition / Deemed supplies / Deemed supplies under Sec 143 ○ Table 17 & 18 – HSN wise summary for Outward & Inward supplies <p>ii. Changes in GSTR-9C</p> <p>General:</p> <ul style="list-style-type: none"> • Few Instructions have been amended to make the forms suitable for FY 17-18 and also for FY 18-19 <p>Simplifications for FY 17-18 and FY 18-19:</p> <ul style="list-style-type: none"> • For FY 17-18 and FY 18-19, following tables were made optional. <ul style="list-style-type: none"> ○ Table 5B to 5N – Split in the Reconciliation of gross turnover, Total of the same can be mentioned in 5O-Residuary. ○ Table 12B & 12C – Reconciliation of Net ITC ○ Table 14 – Reconciliation of Expense wise ITC total to GSTR-9 <p>Comments:</p> <p>The changes in Table 5 & 12 seems to defeat the basic purpose of GSTR-9C. Though it is made optional, if the unreconciled/unexplained differences are high, the probability of receiving the enquiries from the department would be high.</p>
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NN 26/2019-CT(R)	22.11.2019	<p><u>An explanation has been added in rate notification to specify that the word “bus body building” includes building of body on chassis of any vehicle falling under chapter 87.</u></p> <p>An explanation has been inserted in the rate notification for item (id) under heading 9988 to specify that the word “bus body building” includes building of body on chassis of any vehicle falling under chapter 87 in the First Schedule to the Customs Tariff Act, 1975. Ince the state Jammu & Kashmir has been split into two union territories, the GSTINs of the registered</p>
NN 62/2019-CT	26.11.2019	<p><u>The Transition plan to split the GSTINs of Jammu & Kashmir state to newly formed UTs has been notified</u></p> <p>Since the state Jammu & Kashmir has been split into two union territories, the GSTINs of the registered persons and the tax structure should also be changed accordingly.</p> <p>Below is the process prescribed for the same:</p> <ul style="list-style-type: none"> • Tax period: For October & November should be considered as followed: <ul style="list-style-type: none"> ○ October, 2019: 1 st October, 2019 to 30th October, 2019; ○ November, 2019: 31st October, 2019 to 30th November, 2019; • Type of Tax: W.e.f. 31st Oct’ 19, till the transition date, irrespective of the type of tax charged in the invoice, the correct tax should be paid in the returns. • Transfer of ITC to new Regn.s: <ul style="list-style-type: none"> ○ ITC shall be transferred on the basis of ratio of turnover of the place of business in the respective UTs ○ For transferring the credit, the amount of credit transferred should be specified in Table 4B(2) of the old GSTIN and in Table 4A(5) of the new GSTIN • The provisions of Sec 24(i) i.e. mandatory registration for making inter-state supplies shall not be applicable for the supplies made from 31-Oct-19, till the date of transition.
NN 63/2019-CT,	12.12.2019	<u>Extension of due dates</u>

NN 64/2019-CT, NN 65/2019-CT, NN 66/2019-CT, and NN 67/2019-CT		<p>i. Due date for GSTR-3B of Nov'19 has been extended by 3 days, i.e. up to 23-Dec-19</p> <p>ii. Due dates for filing GSTR-1, GSTR-3B and GSTR-7 for the tax payers of Jammu & Kashmir, for the months Jul'19-Oct'19 has been extended</p> <p>The Due dates for filing GST returns for the registered persons whose principal place of business is in the State of Jammu and Kashmir has been extend as per below table:</p> <table><tr><th>Notification</th><th>Return</th><th>Related to</th><th>Period</th><th>Due date</th></tr><tr><td>NN 63 and 64/2019-CT</td><td>GSTR-1_Monthly</td><td>Persons with t/o > 1.5Cr</td><td>Jul'19-Oct'19</td><td>20-Dec-19</td></tr><tr><td>NN 65/2019-CT</td><td>GSTR-7_Monthly</td><td>All TDS reg.ns</td><td>Jul'19-Oct'19</td><td>20-Nov-19</td></tr><tr><td>NN 66 and 67/2019-CT</td><td>GSTR-3B_Monthly</td><td>All</td><td>Jul'19-Oct'19</td><td>20-Dec-19</td></tr></table>	Notification	Return	Related to	Period	Due date	NN 63 and 64/2019-CT	GSTR-1_Monthly	Persons with t/o > 1.5Cr	Jul'19-Oct'19	20-Dec-19	NN 65/2019-CT	GSTR-7_Monthly	All TDS reg.ns	Jul'19-Oct'19	20-Nov-19	NN 66 and 67/2019-CT	GSTR-3B_Monthly	All	Jul'19-Oct'19	20-Dec-19
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NN 68/2019-CT, NN 69/2019-CT, NN 70/2019-CT, NN 71/2019-CT, and NN 72/2019-CT	13.12.2019	<p><u>E-Invoicing mandatory with effect from 1st April, 2020, if Aggregate turnover > 100Cr</u></p> <p>i. What is the concept of E-invoicing and how it works?</p> <ul style="list-style-type: none">• Since the pattern of issuing the invoice and the terms used are varying from person to person, it is not possible to configure a system to read all such types of invoice.• Hence, the govt. has come up with an idea of Schema for the invoice and E-invoicing. Accordingly, all the suppliers are required to mention the invoice details in the given form and length (i.e. as per Schema – FORM GST INV-01).• To ensure the same, they would validate the invoices upfront and issue an IRN. The validation includes validation of GSTINs for correctness and other details to check if the same are in line with the schema provided through FORM INV-01.• Further, this would also help the govt to curb the fake invoices.• Although there are multiple circulations on this subject, is not very clear as to how this works practically. Theoretically, below are the three steps involved in the processing: <p>ii. Whom it is applicable?</p> <p>Persons with aggregate turnover exceeding 100 crores in a FY should issue invoice by including such particulars contained in FORM GST INV-01.</p> <p>And the Invoice Reference Number (IRN) should be obtained electronically, for each of the invoices, by providing relevant information</p>																				

		<p>iii. Further, QR code also has been made mandatory for B2C invoices issued by persons with Aggregate turnover exceeding 500 crores</p> <p>iv. The tax payers can adopt this on voluntary basis, as per the timelines below:</p> <ol style="list-style-type: none"> Turnover of over ₹500 crore – from 1st Jan, 2020 Turnover of over ₹100 crore – from 1st Feb, 2020 <p>v. Following are the portals for submitting details and generating IRN:</p> <ol style="list-style-type: none"> www.einvoice1.gst.gov.in; www.einvoice2.gst.gov.in; www.einvoice2.gst.gov.in; <p>Although it was planned to roll-out these portals from 1st Jan, 2020, none of them are working till date.</p> <p>vi. The updated FORM INV-01 has been notified vide <u>Notification No. 02/2020 – Central Tax Dated 01.01.2020</u></p>
NN 73/2019-CT	23.12.2019	Extended the last date for filing of FORM GSTR-3B for the month of November, 2019 by three days from 20.12.2019 till 23.12.2019.
NN 74/2019-CT	26.12.2019	<p><u>Measures for improving the compliance with GSTR-1 and thereby the matching with GSTR-2A</u></p> <p>As the department is insisting on matching of Input tax credit with GSTR-2A through rule 36(4), it has also started taking the measures for increasing compliance with GSTR-1 by the suppliers on the other hand.</p> <p>Late fee for delay in GSTR-1 has been waived of for the GSTR-1 of Jul'17-Nov'19 filed b/w 19-Dec-19 to 10-Jan-20</p> <p>The department has waived of the late filing fees for those missed to file GSTR-1s for any period from Jul'17-Nov'19 but filed between 19-Dec-19 to 10-Jan-20.</p> <p>Although the provisions for late filing fee 25/10 per day are existing, the same was neither collected nor waived off.</p> <p>Since the waiver of late fee also doesn't talk about the returns already filed, the liability for the same still exists. Also, it appears that the department is in view of collecting late filing fees in the upcoming months.</p>
NN 75/2019-CT	26.12.2019	<p><u>New rule 86A has been inserted to authorize the officers to restrict the usage of credit in Electronic credit ledger</u></p> <p>New rule 86A has been inserted to authorize the commissioners to block the credit utilization of the credit i.e fraudulently availed or ineligible, for discharging any liability, subject to the conditions specified.</p>

		<p>Below are the situations in which the commissioner can block the credit utilization:</p> <ol style="list-style-type: none"> 1. Supplier/ Person availing credit (Recipient) found to be non-existent or not to be conducting any business from the regd. Premises 2. Supplier haven't paid the relevant tax to the govt. 3. Recipient is not in possession of Tax invoice/DNs 4. Recipient haven't received the goods or services 5. Person availing credit is found to be non-existent or not to be conducting any business from the regd. premises <p>Subject to the above conditions, if the commissioner has the reason to believe that the credit is fraudulently availed or is ineligible, then, after recording the reasons in writing, can block the credit.</p> <p>The credit blocked shall be automatically released after expiry of one year from the date of blocking the same.</p> <p>Further, to avoid miss use of such powers to the officers, it is specified that the commissioner can't authorize the persons below the rank of Assistant commissioner.</p> <p><u>New rule sub-rule 138E(c) has been inserted to authorize blocking of E-way bill for non-filing of GSTR-1 for any 2 months/quarters</u></p> <ol style="list-style-type: none"> 1. Earlier, vide rule 138E, the department has introduced the system of automated blocking of E-way bill facility for non-filing with consecutive GSTR-3Bs/CMP-08s 2. Now the same has been extended for non-compliance with GSTR-1 for any two months/quarters. <p>Since there is no restriction in the portal for filing GSTR-1s chronologically, missing of any two GSTR-1s would result in blocking of E-way bills. Whereas, for 3B, it is mentioned as consecutive returns.</p>
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NN 76/2019-CT, NN 77/2019-CT, NN 78/2019-CT, and NN 65/2019-CT	26.12.2019 (first three) and 12.12.2019	<p><u>Extension of due dates</u> Due dates for filing GSTR-1, GSTR-3B and GSTR-7 for the tax payers of Assam, Manipur or Tripura, for the month Nov'19 has been extended</p> <p>The Due dates for filing GST returns for the registered persons whose principal place of business is in the States Assam, Manipur or Tripura has been extend as per below table:</p> <table><tr><th>Notification</th><th>Return</th><th>Related to</th><th>Period</th><th>Due date</th></tr><tr><td>NN 76/2019-CT</td><td>GSTR-1_Monthly</td><td>Persons with t/o > 1.5Cr</td><td>Nov'19</td><td>31-Dec-19</td></tr><tr><td>NN 65/2019-CT</td><td>GSTR-7_Monthly</td><td>All TDS reg.ns</td><td>Jul'19-Oct'19</td><td>20-Nov-19</td></tr><tr><td>NN 78/2019-CT</td><td>GSTR-7_Monthly</td><td>All TDS reg.ns</td><td>Nov, 19</td><td>25-Dec-19</td></tr><tr><td>NN 77/2019-CT</td><td>GSTR-3B_Monthly</td><td>All</td><td>Nov'19</td><td>31-Dec-19</td></tr></table>	Notification	Return	Related to	Period	Due date	NN 76/2019-CT	GSTR-1_Monthly	Persons with t/o > 1.5Cr	Nov'19	31-Dec-19	NN 65/2019-CT	GSTR-7_Monthly	All TDS reg.ns	Jul'19-Oct'19	20-Nov-19	NN 78/2019-CT	GSTR-7_Monthly	All TDS reg.ns	Nov, 19	25-Dec-19	NN 77/2019-CT	GSTR-3B_Monthly	All	Nov'19	31-Dec-19
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NN 27/2019-CT(R)	31.12.2019	<p>i. GST rate for HSNs 3923/6305, 63053200 has been changed from 12% to 18%.</p> <p>ii. Exemption long term lease premium paid for of industrial plots or plots for development of infrastructure for financial business to Development corporations and undertakings has been extended to the entities where the govt is holding 20% of the ownership.</p>																									
NN 28/2019-CT(R)	31.12.2019	To amend <u>notification No. 12/2017- Central Tax (Rate)</u> so as to exempt certain services as recommended by GST Council in its 38th meeting held on 18.12.2019.																									
NN 29/2019-CT(R), r.w. Circular No. 130/49/2019-GST	31.12.2019 (both)	<p><u>RCM on renting of motor vehicles shall be applicable only for the cases where</u></p> <p>i. The purpose of renting is for transportation of passengers ii. Service provider is not a body corporate, iii. Service recipient is Body corporate iv. Service provider haven't opted to charge tax at 12%</p> <p>In order to implement the 37th council meeting decision to charge GST for renting of passenger transport vehicles under RCM, Notification No. 22/2019-CT(Rate) Date: 30th Sep 2019 has been issued to add new entry "15" in 13/2017, for levying GST under RCM on renting of motor vehicles to body corporate.</p> <p>However, there were doubts raised w.r.t the drafting of the entry, where it says RCM is applicable for renting of any motor vehicle, if the supplier paying tax at 5%.</p>																									

		<p>Hence, the department has amended the entry “15” vide Notification No. 29/2019-CT (Rate) for providing more clarity and also issued circular to explain the same.</p> <p>Accordingly, the tax on renting of motor vehicles shall be liable under RCM only if the 4 conditions specified above are satisfied.</p> <p>Further, the circular has clarified that, since the change in the entry is of clarificatory in nature, the effective date shall remain as 01-Oct-2019</p>
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Shridhar & Associates

Summary of the Circular issued- October, 2019 to December, 2019.

Circular No.	Date	Description
Circular No. 110/29/2019- GST	03.10.2019	<p>Persons who had inadvertently filed the “NIL” Refund application (RFD 01/01A) under any category, can file a new refund application for the same period. Subject to the conditions and procedure prescribed.</p> <p>A. <u>Conditions:</u></p> <ol style="list-style-type: none"> If the claim is for refund of the accumulated input tax credit on account of : <ul style="list-style-type: none"> Exports without payment of tax Supplies to SEZ Unit/SEZ Developer without payment of tax Accumulation due to Inverted tax structure and the supplier has not filed any refund application for the future period under the same category. For other categories, no other conditions other than filing the NIL application shall be applicable. <p>B. <u>Procedure:</u></p> <ol style="list-style-type: none"> The regd. person shall file the refund application for the same period under “Any other” category The application should contain all the supporting documents, which are required in the regular process The proper officer shall review the same and ask for the additional info., if any After review the officer shall compute the eligible refund and ask the recipient to reverse the credit through DRC-03. <p>After submitting the proof of the same, the proper officer shall issue the refund order and the payment order.</p>

Circular No. 111/30/2019- GST	03.10.2019	<p>Procedure for claiming the refund amount in cases where the original claim of refund was rejected (in part/full) in RFD-06 but subsequently received the favourable order in appeal or any other forum</p> <p>A. Background: In case appeals against the rejection of refund application, the credit amount is not being re-credited to the credit ledger, until the appeal is finally rejected. And Currently the process of appeal is manual.</p> <p>B. Procedure:</p> <ol style="list-style-type: none"> The regd. person shall file a new refund application for the same period under “<i>Refund on account of assessment/provisional assessment/appeal/any other order</i>” category The application should contain details of the <ul style="list-style-type: none"> Type of the Order (appeal/any other order), Order No., Order date and the Order Issuing Authority Copy of the present Order (Appeal/Other) and Copy of the rejection order (RFD-06-Rejection of refund) The proper offer shall review the same and ask for the additional info., if any Since the amount debited earlier haven’t been recredited, the regd. person shall not be required to reverse any credit in this process After receiving all the documents and details specified above, the proper officer shall issue the refund order and payment order. The amount remained as rejected, if any, shall be re-credited to the respective electronic ledger.
Circular No. 112/31/2019- GST	03.10.2019	The Circular 105/24/2019 – Related to Clarification on various doubts related to treatment of secondary or post-sales discounts under GST has been withdrawn.
Circular No. 113/32/2019- GST	11.10.2019	Clarification on GST classification and rate of tax for certain Goods. (Refer Annexure-I)
Circular No. 114/33/2019- GST	11.10.2019	It is clarified that the scope of support services to exploration, mining or drilling of petroleum crude or natural gas or both shall be decided based on the explanatory notes to Heading 9983 and 9986.

Circular No. 115/34/2019- GST	11.10.2019	<p>It is clarified that airlines need not pay GST on the Airport levies</p> <ol style="list-style-type: none"> Passenger Service Fee (PSF) and User Development Fee (UDF) are the amounts charges levied by airport operator but collected by the Airlines on behalf of the airport operator PSF & UDF are consideration for the services provided by Airport operators. Hence, they are liable to pay GST. <ul style="list-style-type: none"> Airlines should: <ul style="list-style-type: none"> Satisfy the Pure-agent conditions Issue invoice showing the value of PSF&DSF along with the GST component of the same Pay GST on the ticket charges excluding the PSF & DSF Pay GST on the collection charges received from Airport operators
Circular No. 116/35/2019- GST	11.10.2019	<p>Displaying the name of the Donors (Individuals) by the recipient of the Donation is not a supply, subject to the following conditions:</p> <p>The gift or donation is made to a charitable organization</p> <p>The payment has the character of gift or donation, there is no Quid Pro Quo</p> <p>The purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement</p> <p>Note: The clarification is specific for the Individual donors.</p>
Circular No. 117/36/2019- GST	11.10.2019	<p>Maritime courses approved by DG Shipping and conducted by Maritime Training Institutes of India are exempted – Sl.No.66 of the Notification No. 12/2017- Central Tax (Rate), Dated: 28th Jun 2017</p>
Circular No. 118/37/2019- GST	11.10.2019	<p>Place of supply in case of software/design services related to ESDM industry shall be decide based on the principal supply</p>
Circular No. 119/38/2019- GST	11.10.2019	<p>GST is payable on the lending fees received by lender for the lending of securities under “Securities Lending Scheme, 1997”</p> <ul style="list-style-type: none"> Under the Scheme, lender of securities lends to a borrower through an approved intermediary under an agreement for a specified period with the condition that the borrower will return equivalent securities of the same type or class at the end of the period along with the corporate benefits accruing on the securities borrowed. The lenders earn lending fee for the same. The activity of lending of securities is not a transaction in securities as it does not involve disposal of securities and therefore is not excluded from the definition of services The supply of lending of securities under the scheme is classifiable under heading 997119 and is leviable to GST@18% under Sl. No. 15(vii) of Notification No. 11/2017-CT (Rate) For the past period i.e. from 01.07.2017 to 30.09.2019, IGST is payable under forward charge by the lender and w.e.f. 01-Oct-19,

		the borrower of securities shall be liable to discharge GST under RCM – Sl. No 16 of Notification No. 22/2019-CT(Rate).
Circular No. 120/39/2019-GST	11.10.2019	The effective date of explanation inserted in Notification No. 11/2017-CT (Rate) for Sr. No. 3(vi) – reg. shall be the effective date of the original provision, i.e. 27_Jun-2017.
Circular No. 121/40/2019-GST	11.10.2019	<p>The license fee charged by the States for grant of Liquor licences to vendors reg., not a supply and hence, not liable to GST</p> <ol style="list-style-type: none"> Services proved by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Tax is required to be paid by the business entities on such services under reverse charge. However, considering the agreement between the Central & State govt.s, w.r.t. the liquor licences, the council has suggested to notify the service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or others as neither a supply of goods nor a supply of service. Further, it is clarified that this special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments
Circular No. 122/41/2019-GST	05.11.2019	<p><u>CBIC has mandated quoting of Document Identification Number (DIN) on all the communications issued by its officers w.e.f. 8th Nov,2019.</u></p> <p><u>i. Objective:</u> The objective is to have transparency and accountability in indirect tax administration through widespread use of information technology. This would create a digital directory for maintaining a proper audit trail of such communication. Further, it would also provide the recipients of such communication a digital facility to ascertain their genuineness.</p> <p><u>ii. Applicability:</u> Following are the cases for which the DIN has been mandated now:</p> <ul style="list-style-type: none"> • search authorization, • summons, • arrest memo, • inspection notices and • letters issued in the course of any enquiry <p>by any officer of CBIC, to any tax payer or other person</p> <p>It is also specified that the DIN shall be mandated for all other communications, and also there is a plant to have the communication itself bearing the DIN generated from the system.</p>

		<p>Note: For the above said cases, unless the same is covered as per below exceptions, the communications without DIN shall be treated as invalid and shall be deemed to have never been issued.</p> <p>iii. <u>Exceptions</u> Following are the cases where DIN can be generated on Post-Facto basis:</p> <ol style="list-style-type: none"> when there are technical difficulties in generating the electronic DIN, or when communication regarding investigation/enquiry, verification etc. is required to be issued at short notice or in urgent situations and the authorized officer is outside the office in the discharge of his official duties. <p>In such cases, the communications should expressly state that it has been issued without a DIN. The reasons for the same should be recorded in the concerned file.</p> <p>iv. <u>Regularization of exceptions</u> The communications issued without DIN, as per above said circumstances, should be regularized within 15 working days, in the following manner:</p> <ol style="list-style-type: none"> obtaining the post facto approval of the immediate superior officer as regards the justification of issuing the communication without the electronically generated DIN; mandatorily electronically generating the DIN after post facto approval; and printing the electronically generated pro-forma bearing the DIN and filing it in the concerned file. <p>v. <u>Format of DIN – “CBIC-YYYY MM ZCDR NNNNNN”:</u> Various components of the DIN are explained as followed:</p> <ol style="list-style-type: none"> YYYY – Calendar year in which the DIN is generated, MM – Calendar month in which the DIN is generated, ZCDR – Zone-Commissionerate-Division-Range Code of the field formation/Directorate of the authorized user generating the DIN, NNNNNN – 6 digit alpha-numeric system generated random number. <p>vi. <u>Verification of Genuineness</u> The genuineness of the communication can be ascertained by recipient (public) by entering the CBIC- DIN for that communication in a window VERIFY CBIC-DIN on CBIC’s website cbic.gov.in.</p> <p>Only in those cases where the DIN entered is valid, information about the office that issued that communication and the date of generation of its DIN would be displayed on the screen.</p>
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Circular No. 123/42/2019- GST	11.11.2019	<p><u>Certain clarifications were provided for applying Rule 36(4) i.e. credit restriction to matching GSTR-2A+20%.</u></p> <p>i. What are the credits covered under this rule? And From which date the rule shall be applicable?</p> <ul style="list-style-type: none"> • The restriction is only in respect of invoices, Debit notes and Credit notes which are required to be uploaded by the supplier in his GSTR-1. • The ITC in respect of IGST paid on import, documents issued under RCM, credit received from ISD etc. which are outside the ambit of sub-section (1) of section 37 are not covered under this rule. • Further, the restriction is only in respect of the invoices / debit notes on which credit is availed after 09.10.2019. <p><u>Comments:</u></p> <ul style="list-style-type: none"> • Since the rule specifies the restriction for the “credit to be availed”, and not on the basis of the date of invoice or return period, the restriction shall be applicable to all the invoices for which the credit availed on or after 09-Oct-19. • Further, as per GST law, mere accounting of credit in books of accounts doesn’t amount to availment of credit. The credit availment shall be only by filing of GST returns. • Hence, the rule shall be applicable for all the returns filed on or after 09-10-2019. • For eg. If the returns Jul’19-Sep’19 are filed after 09-Oct-19, then the rule shall be applicable to the credit availed in all those returns. <p>ii. Whether the said restriction is to be calculated supplier wise or on consolidated basis?</p> <ul style="list-style-type: none"> • The restriction is for the total eligible credit from all suppliers and not to be applied supplier wise. • Further, only those invoices which are otherwise eligible credit should be considered for calculating 20%. <p><u>Comments:</u></p> <ul style="list-style-type: none"> • Since the rule specifies the restriction for the “20% of eligible credit”, the invoices reflecting in GSTR-2A for which the credit isn’t eligible for any other reason like restriction under Sec 17(5), failure to satisfy conditions of Sec 16..etc shouldn’t considered for calculating 20% amount. <p>iii. GSTR-2A being dynamic document, what is the date to be considered for ascertaining the credit as per this rule?</p> <p>Invoices reflecting in GSTR-2A as on the Due date for filing GSTR-1 by the suppliers, should be considered as basis for ascertaining credit as per this rule.</p>
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Circular No. 124/43/2019-GST	11.11.2019	<p><u>CBIC has clarified that, for the optional filing cases, GSTR-9/9A should be filed before the due date, otherwise the same shall not be allowed to be filed</u></p> <p>Following are the clarifications provided:</p> <ol style="list-style-type: none"> The registered persons <ul style="list-style-type: none"> under composition scheme should file GSTR-9A and with aggregate turnover in a financial year not exceeding 2 cores, should file their GSTR-9 <p>on or before the due date for filing the same, otherwise the same shall not be allowed to file later.</p> <ol style="list-style-type: none"> Further, it is also clarified that, in case the registered person has identified any missed liability and would like to pay the same on voluntary basis, same can be paid through DRC-03 at any point of time.
Circular No. 125/44/2019-GST	11.11.2019	<p><u>Consolidated master circular was issued for new 100% electronic refund processing</u></p> <p>Considering the changes in the refund filing mechanism and also to provide a consolidated list of clarifications, the department has issued a circular to provide the guidance on the new refund process and also to provide the clarifications for various issues.</p> <p>Process flow for the refunds in general:</p> <p><u>Step-I: Submission of application and Provisional order</u></p> <ul style="list-style-type: none"> The Registered person(RP) shall submit Application in RFD-01 ARN shall be generated by system System shall allocate this to the respective jurisdictional officer In case of incorrect allocation by the system, Commissioner/Persons authorized by the commissioner can re-allocate to the proper officer The officer shall verify the application for its completeness and issue <ul style="list-style-type: none"> Deficiency memo (DM) in RFD-03 for missing information Acknowledgement in RFD-02, if there is no missing information In case of DM, the RP shall re-file the application with all the relevant information The Officer shall verify the same and <ul style="list-style-type: none"> Acknowledgement in RFD-02

		<p>Note: If all the deficiencies referred in the original deficiency memo are rectified by the tax payer, the officer should not add new deficiencies unless there are any exceptional circumstances</p> <p><u>Step-II: Provisional Refund</u></p> <ul style="list-style-type: none"> For exports, within 7 days from the date of acknowledgement, the officer should issue Provisional Order in RFD-04 and Payment order in RFD-05 <p><u>Step-III: Scrutiny of the information & Proposal for rejection, if any</u></p> <ul style="list-style-type: none"> The officer shall scrutinize the information in detail, and, if he believes the claim amount is Partly/Fully ineligible, he shall issue SCN in RFD-08, seeking for the reply from the applicant, as to why the said amount should not be disallowed. The applicant shall reply for the same in RFD-09. <p><u>Step-IV: Final Order</u></p> <ul style="list-style-type: none"> After receiving the required clarifications, the officer shall decide the amount eligible & ineligible and issue final order in RFD-06 and also payment order in RFD-05. Further, in case the officer decides to <ul style="list-style-type: none"> Adjust part of the amount against outstanding demand or Withhold the part of the amount for any specific reason, The same shall be mentioned in RFD-06, and RFD-05 shall be issued for the balance amount. However, if the entire amount to be adjusted against an outstanding demand or to be withheld for any reason, then RFD-07 shall be issued instead of RFD-06. <p>Note: Considering the volume of the circular, the summary of the clarifications and the comprehensive procedure with documents required ..etc has been provided as different article. The same shall be shared separately and also will be uploaded in the website.</p>
Circular No. 126/45/2019-GST	11.11.2019	<p><u>CBIC has clarified that, the supply of Job work services to regd. persons shall be taxable @ 12% and the rest are taxable @ 18%</u></p> <p><u>Issue:</u></p> <p>After inserting the new entry in rate notification at item (id) under heading 9988 w.e.f 01-10-2019, to reduce rate of GST on all job work services, which earlier attracted 18 % rate, to 12%, there was a confusion in the trade as to what are covered under Sl.no. i(d)-12% and what are covered under Sl.no. iv-18%.</p>

		<p><u>Analysis:</u></p> <p>The words used in i(d) refers to Job-work and as per definition provided in Sec2 “<i>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.</i>”</p> <p>Further, in entry iv, it is specified as “<i>Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), [(ib), (ic), (id),] 125 (ii), (iia) and (iii) above</i>”.</p> <p><u>Conclusion:</u></p> <p>Since the Job-work definition covers only registered tax payers,</p> <ul style="list-style-type: none"> • The entry i(d)e. 12% shall be applicable only for the case where the recipient is registered and • The entry ive. 18% shall be applicable for the residual cases including
Circular No. 127/46/2019-GST	04.12.2019	Circular 107/2019 issued for clarifying various doubts related to supply of Information Technology enabled Services (ITeS services) has been withdrawn.
Circular No. 128/47/2019-GST	23.12.2019	<p><u>DIN made mandatory for all types of letters or notices, including Emails from CBIC</u></p> <p>CBIC has mandated quoting of Document Identification Number (DIN) on all the communications including E-mails from its officers w.e.f. 24th Dec,2019.</p> <p>Further, the board has also provided the standardized formats for the Search authorization, Summons, Arrest memos, Inspection notices issued by it’s officers w.e.f. 01-Jan-2020.</p>
Circular No. 129/48/2019-GST	23.12.2019	<p><u>SOP issued for officers to deal with non-filers</u></p> <p>The board has also issued the standard operating procedure to be followed by its officers. The same has been summarized below.</p> <ol style="list-style-type: none"> 1. 3 days prior to the due date of return – Automated reminder mail for filing return 2. If the return isn’t filed by due date – 2nd reminder <ul style="list-style-type: none"> • If the return isn’t filed within 5 days from the due date – Notice in Form GSTR-3A shall be issued • Standard format for GSTR-3A has been prescribed in the circular, the same may be automatically issued to the tax payer, based on return filing status <ul style="list-style-type: none"> ○ If the return isn’t filed within 15 days from the date of Notice – Order to pay tax arrived on the basis of information available in Form ASMT-13

		<p>Note:</p> <ol style="list-style-type: none">1. No separate notice is required to be issued for best judgment assessment under section 622. For assessing the tax liability, the officer may consider GSTR-1, GSTR-2A and also the information gathered through inspection3. Based on the facts of the case, the officer may resort to provisional attachment before issuing ASMT-13<ol style="list-style-type: none">i. If valid return is filed within 30 days from date of order, Order shall be deemed to be withdrawn
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Summary of the Orders issued- October, 2019 to December, 2019.

Order No.	Date	Description
Removal of difficulties Order No. 9/2019-CT	03.12.2019	The last date for filing of appeals before the GST Appellate Tribunal against orders of Appellate Authority has been extended on account of non-constitution of benches of the Appellate Tribunals.

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Case Laws- October, 2019 to December, 2019.

- Siemens Ltd., 19/08/2019, LD/68/59, [2019-TIOL-260-AAR-GST]

Where the applicant had received mobilisation advance from recipient of service in pre-GST period and such advance was adjusted against the invoices raised in period after 01.07.2017, AAR held that in respect of portion of unadjusted advance as on 01.07.2017 (to the extent unadjusted against invoices raised in pre-GST period), the applicant becomes liable to discharge GST liability from 01.07.2017 and subsequently, when such advance will be adjusted against GST invoices to be raised in future, GST shall be paid on net amount (i.e.; invoice value less advance adjusted).

Facts:

The applicant received mobilisation advance from customer in 2011 i.e. pre-GST period. Said advance was liable to be adjusted towards tax invoices to be raised by the applicant on attaining contract progress milestones. The applicant sought present ruling as to what will be the GST implication on the amount so received before the implementation of GST and its recovery against the Applicant's sales invoices issued post introduction of the GST and whether GST shall be charged on the gross amount of the invoice or the net amount after adjusting the lump-sum amount outstanding as on 30.06.2017.

Ruling:

AAR held that in terms of Section 15(1) and Section 13(2) of CGST Act, 2017, the applicant shall be deemed to have supplied service to recipient on 01/07/2017 to the extent covered by the lump-sum that stood credited to its account on that date as mobilisation advance. Accordingly, AAR held that as the supply to the extent of the above amount is deemed to have been made on 01/07/2017 and tax is leviable thereon accordingly, the value of the supply of works contract service in the subsequent invoices as and when raised should, therefore, be reduced to the extent of the advance adjusted in such invoices. To avoid double taxation, the GST should, therefore, be charged on the net amount that remains after such adjustment.

- M/S Chennai Port Trust, 26.07.2019, LD/68/60, [2019-TIOL-265-AAR-GST]

AAR held that interest/late fees/penalty etc. charged for delayed payment of pre-GST invoices is separate supply of service in terms of Section 7(1)(a) of CGST Act, 2017 and hence chargeable to GST.

Facts:

The applicant discharged service tax liability in respect of invoices raised during pre-GST regime for service provided before July 2017. When the payment of such invoices was received by the applicant after July 2017, in terms of contractual terms, applicant charged interest, late fee, penalty etc. Applicant sought present ruling as to whether the amount received on or after 01.07.2017 towards interest, late fee penalty relating to the services other than continuous supply of services (CSS) rendered by the applicant before 01.07.2017 are liable to GST.

Ruling:

AAR noted that the applicant has collected an amount as interest/late fee/ penalty for the delayed payment of consideration for the original service, which was received after 1st July 2017 for which separate invoice was raised. AAR held that there is a payment of a separate consideration for this tolerance of delayed payment of lease /rent. Such payment is a part of the contract for supply of services of the applicant to the port user in the course of their business. It can be said that as the

applicant has tolerated the delayed payment of consideration charged by them which the recipients should have paid much before. Therefore, this tolerance on the part of the applicant for the delayed payment of lease/rent by collecting an interest/late fee/penalty is a separate supply of service as covered under section 7(1)(a) of CGST Act, 2017 and thus chargeable to GST.

- M/S Spacelance Office Solutions Pvt Ltd., 15.07.2019, LD/68/61, [2019-TIOL-255-AAR-GST]

AAR held that separate GST registration can be allowed to multiple companies functioning in a 'co-working space' as there is no prohibition under GST law for obtaining GST registration to a shared office space or virtual office.

Facts:

The applicant is engaged in business of subleasing of offices as 'co-working space' to their clients. The lease agreement between the applicant and landlord permit subleasing and accordingly they obtain NOC from landlord for registering GST for customers. The applicant provides dedicated distinct and identifiable space, table and chairs to each client working there. Each client company is working as separate and identifiable office within main office and these companies are maintaining their financial records in electronic form and accessible from co-working space. These companies have same address and same electricity bill except the suit number or desk number. The GST authorities denied registration to some coworking companies for the reason that already another company is registered in same address. Applicant sought present ruling as to whether GST registration can be allowed for multiple companies from same address, provided they follow all GST rules related to 'principal place of business'.

Ruling:

AAR noted that co-working is a business services provision model that involves individuals working independently or collaboratively in shared office space. A virtual office is an access to the basic services that are generally provided in a traditional office such as permanent office address, meeting rooms or video conferencing rooms, a mail forwarding facility with minimum charge etc. without a room for real-life people and these offices are of greater benefits to the travelling freelancers, small businesses, start-ups and even to businesses that are operated from remote areas. AAR held that there is no prohibition under GST law for obtaining GST registration to a shared office space or virtual office. Thus, if the landlord permits such subleasing as per agreement and each co-working space is demarcated with different suite number or desk number, identification of a taxpayer is not a difficult thing as GST registration is based on PAN. Therefore, AAR held that separate GST registration can be allowed to multiple companies functioning in a "co-working space" and which provide services alone. Further, it was held that such companies shall upload rental agreement with the landlord and lessee and if there is any sub-lease, then rental agreement between lessee and sub-lessee should also be uploaded as proof of address of principal place of business of respective suite or desk number assigned to them.

- M/s Jotun India Private Limited, 04/10/2019, LD/68/74, [2019-TIOL-312-AAR-GST]

When applicant provided parental insurance scheme for parents of its employees and recovered 50% premium from employees, AAR held that such recovery of the premium will not attract GST as it does not amount to 'supply'.

Facts:

The applicant introduced a parental insurance scheme for employees' parents, which is optional. Under the said scheme, the applicant initially pays the entire premium along with taxes to the insurance company. The insurance company issues the premium receipt in the name of the applicant. In the case of the employees who opt for the parental insurance scheme, the applicant recovers 50 percent of the premium from the salaries and the applicant bears the balance 50 percent amount of premium. The applicant sought present ruling as to whether GST is payable on the recovery of 50% of the insurance premium from the salary of the employees?

Ruling:

AAR noted that since the applicant is neither in the business of providing insurance coverage nor it is mandatory for the applicant to provide parental insurance cover as there is no such requirement under any law for the time being in force and therefore, non-providing parental insurance coverage would not affect its business by any means. Therefore, that activity of recovery of 50% of the cost of insurance premium cannot be treated as an activity done in the course of business or for the furtherance of business.

AAR noted that from combined reading of definition of 'supply' under section 7 of CGST Act, and definition of 'business' under section 2(17) of CGST Act, 2017, it emerges that the activity is undertaken by the applicant like providing of medi-claim policy for the employees' parent through insurance company neither satisfies conditions of Section 7 to be held as "supply of service" nor it is covered under the term "business" of Section 2(17) of CGST Act, 2017. Thus AAR held that the applicant is not rendering any services of health insurance to their employees' parent and hence, there is no supply of services in the present transaction between employer and employee.

- Metro Dairy Limited, 23/09/2019, LD/68/75, [2019-TIOL-312-AAR-GST]

When the commercial production of taxable goods commenced and production of exempted goods commenced subsequently, as regards availability of common credit on capital goods till production of exempted goods, AAR held that in terms of proviso to Rule 43(1)(d), (e), (f) and (g) of the GST Rules, the applicant is required to compute the admissible amount of common ITC capital goods, in the tax periods over the useful life of such capital goods, calculated from the date of invoice and balance ITC shall be reversed that has already been credited to its electronic credit ledger.

As regards common credit on input services, AAR held that as commercial production of exempted goods did not begin, the entire ITC on input services will be admissible subject to Rule 42(2) of CGST Rules, 2017.

Facts:

Applicant set up a manufacturing facility for production of taxable as well as exempted goods. Commercial production of taxable goods commenced in 2018, whereas commercial production of exempted goods did not commence at all during FY 2018-19. The Applicant has procured capital goods and input services that are common to the production of both taxable and exempted goods. The

applicant sought a present ruling on the admissibility of the proportionate input tax credit on such capital goods and input services.

Held:

As regards mechanism for apportionment of input tax credit on capital goods, that were used for manufacturing taxable goods but are going to be used subsequently for production of both taxable and exempted goods, AAR held that amount of input tax on each of such capital goods shall be credited to the electronic credit ledger in terms of Rule 43(1)(c) of the CGST Rules, which also prescribes sixty months from the date of invoice as the useful life of such capital goods. The value of input tax credit on capital good shall be arrived at by reducing the input tax at a 5% rate for every quarter or part thereof. AAR held that the amount of input tax credit attributed to the period when such capital goods were used for manufacturing taxable goods shall be calculated in terms of proviso to Rule 43(1) of CGST Rules, 2019 and the balance amount of the input tax to be apportioned after commencement of production of the exempted goods shall be calculated under Rule 3(1)(e), (f) and (g) of CGST Rules, 2017.

As regards common credit on input services, AAR held that since commercial production of exempted goods did not commence during FY 2018-19, no amount of the common credit of input tax on input services available during 2018-19 should, therefore, be attributed towards exempt supplies and subject to the provisions under Rule 42(2) of the GST Rules, the entire input tax on input services is an admissible credit during 2018-19.

- M/s Directorate of Skill Development Global Skill Development Park, 18/07/2019, LD/68/76, [2019-TIOL-283-AAR-GST]

AAR held that import of services by a government department from the supplier of service located in non-taxable territory, for business/commerce purposes are chargeable to GST under reverse charge mechanism in terms of Notification No. 10/2017-IT (R).

Facts:

The Applicant was the Director of Skills Development Department of Technical Education Skill Development and Employment Govt. of Madhya Pradesh who was awarded a project for the Establishment of Centre for Occupational Skills Acquisition within the Global Skills Park (GSP). The objective of the said project was to assist the Government of Madhya Pradesh (GOMP) in transforming its technical and vocational education and training (TVET) system to create a skilled workforce that meets the evolving development needs of the state. For the purpose of the said project, the applicant entered into an agreement with a Singapore based company for getting consultancy services for the said project. The applicant raised a question as to whether the applicant will be required to pay GST under reverse charge basis in terms of Section 5(3) of IGST Act, 2017 read with Notification No. 10/2017-IGST(R) and exemption Notification No.9/2017-IGST(R).

Ruling:

AAR noted that the applicant is also running a Society under Madhya Pradesh Finns and Societies Act, 1973 by the name Global Skill Park. The AAR analysed the main objects with which the said Society was established by the applicant and came to the conclusion that, as the said Society is carrying on business as defined in Section 2(17) of the CGST Act, the applicant can also be said to be engaged in business or profession. Accordingly, AAR held that since said activities are held to be carrying on business and profession, the exemption given under Notification No. 9/2017-IT (R) i.e., services received by government from provider of service located in non-taxable territory outside India, for the

purpose other than commerce, industry or any other business or profession, would not apply to applicant and hence, applicant would be required to pay GST under reverse charge mechanism.

- M/s Ascendas Services India Pvt Ltd., 30/09/2019, LD/68/91, [2019-TIOL-380-AAR-GST (Bengaluru)]

When the applicant facilitated transportation services to commuters of business park (operated and maintained by the applicant) by issuing bus passes, but the transport agency raised one consolidated invoice on applicant instead of raising bills on individual passengers for transportation services, AAR held that applicant cannot be regarded as 'intermediary' and the value of bus passes distributed by the applicant shall be included in the value of services provided by the applicant.

Facts:

The applicant is in the business of operation and maintenance of International Tech Park, Bengaluru (ITPB). The applicant also facilitates services of transportation to the employees of the tenants of the business park (i.e., commuters). For the provision of transport facilitation service, the applicant has entered into a contract with Bangalore Metropolitan Transport Corporation (BMTC), a public bus transport provider for Bangalore. To facilitate the said service, the applicant receives bus passes from BMTC for distribution. For every 50 bus passes collected by the applicant, BMTC would allot one chartered bus to the applicant, which would provide transportation service between designated bus stops and ITPB. The applicant charges a separate fee in the form of 'facilitation fees' for arranging this facility to commuters and charges GST on the same. At the end of the month, the applicant returns unutilised passes to BMTC and thereafter, on the basis of the actual number of passes utilised, BMTC raises a consolidated invoice in the name of the applicant for the month by charging GST, instead of raising the same in the name of each individual customer. As a facilitator of service, the applicant approaches BMTC in case of any deficiency in the provision of service by BMTC as reported by commuters. Applicant sought present ruling as to whether (i) value of bus passes given by the applicant to the commuters is to be included in the value of facilitation charges in terms of Section 15(2) of CGST Act, 2017 and (ii) whether the supply of service in the hands of the applicant could be classified as merely a supply of facilitation services between BMTC and the commuters?

Ruling:

AAR noted that the applicant is required to settle the bills raised by BMTC, otherwise, BMTC reserves right to stop the services of the chartered buses. The commuters travelling in buses engaged by the applicant shall possess identification cards and monthly passes/casual passes issued by the applicant. In case of non-operation of any route because of reasons attributable to BMTC, the applicant shall be entitled to recover from BMTC pre-determined amount. Also, in case of cessation of services by BMTC without applicant's agreement, the applicant will be entitled to recover cost and expenses incurred in providing alternate transport services until such time BMTC recommences its services or terminates the agreement. Therefore, AAR opined that BMTC is providing services to the applicant and not to the actual passengers. The applicant is in receipt of service and the monthly passes are meant only for identification and calculation of the value of services provided by BMTC to the applicant. The applicant is providing transportation service to actual passengers and is also required to arrange alternate services to the commuters in case BMTC ceases to provide the transport service wholly or in part. The commuters or the companies in ITPB are not a party to the contract between the applicant and BMTC and the applicant is providing services after obtaining the same from BMTC. AAR held that the contention of the applicant that they are acting as an intermediary is incorrect in of BMTC or the commuter. Therefore, AAR held that the value of supply shall be the total amount charged by the applicant to the commuters. Thus, the value of supply of monthly passes issued by the applicant as well as facilitation and such other amounts which form part of the value of supply as

specified under section 15 of CGST Act, 2017 would be the value of services supplied by the applicant to the commuters. as much as the applicant is receiving services provided by BMTC and providing services to its clients i.e., commuters and all are principal to the principal in nature and the applicant is neither the agent.

- M/s Aquarelle India Private Limited, 30/09/2019, LD/68/92, [2019-TIOL-365-AAR-GST (Bengaluru)]

At the time of vacating leased premises, when applicant handed over fixtures fastened by them to such premises, without charging consideration to the lessor, AAR held that such transfer of a business asset by the applicant would be chargeable to GST in terms of entry no. 4(a) of Schedule II to CGST Act, 2017. Further, AAR held that value of such supply shall be determined in terms of Rule 27, 30 or 31 of CGST Rules, 2017.

Facts:

The applicant company took business premises on lease in pre-GST regime, which it wishes to vacate in the near future and intend to hand over possession of the premises to lessor along with the fixtures to the building. These fixtures cannot be dismantled on vacating the premises and would be handed over to lessor in “as is where is” condition, without charging consideration for handed over assets. The applicant submitted that these assets were capitalised in books of accounts as “office equipment, furniture and fittings” before the introduction of GST and no credit of VAT or CENVAT was availed under earlier regime. The applicant filed the present application before AAR, in respect of questions: (i) Whether disposing off assets (for which no ITC was taken in pre-GST regime) fastened to the building on delivering possession to the lessor and without charging consideration for same, shall fall within the ambit of term ‘supply’ under section 7 of CGST Act, 2017 and chargeable to GST? (ii) if the said transaction is regarded as a taxable supply, then should the value appearing in books as on the date of disposal may be construed as the “open market value” on which GST is to be discharged as per Rule 27 of CGST Rules, 2017.

Ruling:

AAR noted that the assets sought to be transferred by the applicant are capitalised under the head “office equipment, furniture and fittings” and forms the part of assets of applicant business entity. AAR noted that after the transfer, these assets would no longer form part of applicant’s business assets. AAR held that in light of entry 4(a) of Schedule II of CGST Act, 2017, said transfer/disposal of business assets by the applicant would constitute ‘supply of goods’ irrespective of whether the said transfer/ disposal is for consideration or not.

As regards submission of applicant that no consideration would be charged for transfer of assets to lessor, AAR held that in terms of Section 2(31)(b) of CGST Act, 2017 the term ‘consideration’ in relation to supply of goods or services or both would include the monetary value of any act or forbearance by the applicant in response to the supply of goods or services. AAR held that writing off the value of assets in the balance sheet by the applicant is an act related to transfer of property in assets and this monetary value of that act would form consideration in relation to the supply made by the applicant.

As regards the value of supply of fixtures transferred, AAR held that value of supply shall be determined as the open market value of such supply in terms of Rule 27 of CGST Rules, 2017 or value of supply of goods of like kind. If such value is not available, in terms of Rule 30 of CGST Rules,

2017, the value shall be determined as 110% of the book value of such goods in the books of accounts. Otherwise, the value of supply shall be determined as per Rule 31 of CGST Rules, 2017.

Note:

It appeared that in this matter, the provisions of Section 7(1A) [as amended retrospectively] were not taken into consideration by the Ld. AAR. The section provides that, where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II. Hence, Schedule II has applicability only in cases where a transaction is regarded as “supply” within provisions of Section 7(1). In the present case, the supply is without consideration and is also not covered under any of the entries mentioned in Schedule I. Hence, this Ruling may need reconsideration.

- M/s Humble Mobile Solutions Pvt Ltd., 19/09/2019, LD/68/93, [2019-TIOL-346-AAR-GST (Bengaluru)]

When applicant operated e-commerce platform wherein individual drivers were connected to customers and such drivers provided services of driving in vehicles of customers, i.e., service recipients, AAR held applicant e-commerce operator would not be liable to pay tax for supply of services by drivers under section 9(5) of CGST Act, 2017 read with Notification No. 17/2017-CTR.

Facts:

The applicant operates a technology-based e-commerce platform service called “DriverU” which seeks to provide drivers on-demand to the customers who wish to obtain the services of a driver. The drivers are individual and independent service providers, who enlist themselves with DriveU. The drivers are not employees of the applicant and are independent service providers. Also, the applicant doesn’t provide driving or transportation services. The mode of transportation is offered by the customer and towards the end of the commute the customers are charged for the services of the driver which is intimated to them over the app or mail and such charges can be paid in cash, directly to the driver or through online payment options to the applicant. Pursuant to payment for the drivers’ services through any of the online modes, the applicant remits the proceeds collected from the customers to the respective drivers subject to deduction of TDS under section 194C of Income Tax Act, 1961. Also, applicant charges convenience fees including GST to the drivers for use of the applicant’s e-commerce platform. The applicant sought present ruling as to whether, in terms of Section 9(5) of CGST Act, 2017 read with Notification No. 17/2017-CTR, the applicant would be liable to pay GST on services supplied through it by third-party service providers i.e., drivers.

Ruling:

AAR noted that the drivers are neither employees of the applicant nor hired by the applicant. They are only listed on the portal of the applicant and are providing their services on principal to principal basis and the consideration for the same is either directly received from the recipients of the service or indirectly through the applicant. Further, the drivers are not supplying services in their vehicles but are driving vehicles belonging to the recipient of services and thus, are not providing “services of transportation of passengers by a radio-taxi, motorcar, maxicab and motorcycle” but are providing manpower services namely “driving a motor vehicle service” which is not covered any services listed under Notification No. 17/2017-CTR. Therefore, AAR held that the services provided by the drivers are not covered under Notification No. 17/2017-CTR and hence, not covered under section 9(5) of the CGST Act and thus, the applicant is not liable to pay GST on services provided by the drivers. Further, AAR held that the applicant is liable to collect tax under section 52 of CGST Act, 2017 on the net

taxable supplies made by the drivers where the consideration with respect to such supplies is to be collected by the applicant.

- Carnation Hotels Pvt Ltd., 16/09/2019, LD/68/94, [2019-TIOL-323-AAR-GST (Bengaluru)]

Supply of accommodation services supplied to SEZ units for authorised operations is inter-state supply under section 7(5)(b) of IGST Act, 2017 and the same can be treated as zero-rated supplies.

Facts:

The applicant has proposed to operate the hotels and rent out rooms to the employees of the SEZ units. The services rendered by applicant hotels are entirely consumed at premises itself. The applicant submits that in terms of Section 12(3) of IGST Act, 2017, the place of supply of lodging accommodation services is the location of immovable property i.e., hotel. Since the applicant and the hotel are located in the same state, applicant contends that CGST-SGST would be applicable. Whereas services rendered to SEZ unit are treated as interstate supplies and liable to IGST under section 5(1) of IGST Act, 2017 and not under section 9(1) of CGST/SGST Act, though the location of supplier and place of supply are in the same state. Thus, the applicant filed a present application seeking ruling whether accommodation services proposed to be rendered by the applicant to SEZ units are liable to CGST-SGST or IGST and if such services are covered under IGST Act, can these be treated as zero-rated supplies and invoice be raised without charging tax after executing LUT under section 16.

Ruling:

AAR noted that in light of Section 16(1)(b) of IGST Act, 2017 and Rule 46 of CGST Rules, 2017, the supplies of goods or services or both towards authorised operations only shall be treated as supplies to SEZ developer/SEZ unit. Also, AAR noted that in terms of Circular No. 48/22/2018-GST dated 14.06.2018 it is clarified that services of short-term accommodation, conferencing, banqueting, etc. provided to SEZ developers or SEZ units shall be treated as inter-state supply. Also, AAR noted that as regards whether such supply of services to SEZ units would be treated as zero-rated supply, said circular clarified that subject to provisions of Section 17(5) of CGST Act, 2017, if event management services, hotel, accommodation services, consumables, etc. are received by SEZ developer or SEZ unit for authorised operations, as endorsed by specified officer of the Zone, the benefit of zero-rated supply shall be available in such cases to SEZ supplier. Therefore, in light of said clarifications, AAR held that supply of accommodation services by the applicant to SEZ units would be interstate supply as per Section 7(5)(b) of CGST Act, 2017 and can be treated as 'zero-rated supplies' and invoice can be raised without charging GST after executing LUT.

- M/s Elior India Catering LLP, 12/09/2019, LD/68/95, [2019-TIOL-318-AAR-GST (Bengaluru)]

When applicant prepared food at the premises of its customer and sold food to employees of the customer by charging consideration to employees, AAR held that such services won't be regarded as 'outdoor catering services' in terms of entry no. 7(v) of Notification No. 11/2017-CTR. Such services would be classifiable under entry no. 7(i) as 'supply of food by canteen' and chargeable to 5% GST subject to conditions stipulated in the proviso to the said entry.

Facts:

The applicant is engaged in the business of providing catering services to its clients. In certain cases, the applicant operates its business from client premises, where it undertakes preparation and supply of food exclusively at client's premises in terms of the contractual arrangement entered with the

respective clients. In such cases, infrastructure facilities like kitchen space (cooking area), kitchen equipment and utilities such as electricity and water, gas bank area with the pipeline, regulators connections etc. are made available to applicant by the client at their premises. The applicant sources all raw materials and inputs required for preparation of food on regular intervals and make its own arrangements for their transportation to the on-site kitchen area. Accordingly, the applicant is providing catering support services to one M/s Cisco Systems India Private Limited/employees of Cisco, from applicant's kitchen located at Cisco premises. Under cash and carry model for providing catering services to employees of Cisco, applicant serves the food to employees of Cisco over the counter and consideration towards the same is received from the respective employees/individuals who place the order, at the rates provided in the menu. Though the menu is decided in agreement with the employer, invoices are issued under GSTIN of the applicant to individual employees. The applicant sought present ruling as to (i) whether services rendered by the applicant under said cash and carry model are in the nature of 'services provided by canteen' as per sr. no. (7)(i) or 'outdoor catering services' as per sr. no. 7(v) of Notification No. 11/2017-CT(R) and (ii) if such services are classifiable as 'services provided by canteen', whether GST will be chargeable at 2.5%.

Ruling:

AAR noted that the materials offered to the employees on menu card are displayed and there is no binding on the part of the employees to purchase the same. Though the menu is decided in consultation with the employer, it has no bearing on the contract between applicant-supplier and person receiving the service i.e., employee. AAR held that since the employee is the person who pays the consideration, he becomes the recipient of service and the service is rendered by the applicant to the employee. The recipient is not bound to purchase items and only on his decision to purchase the food items available for sale, the contract of supply is entered and the consideration is as shown in the menu card. Thus, AAR held that the contract of supply is between the applicant and the employee.

Further, AAR noted that services supplied by the applicant cannot be said to 'outdoor catering services' in terms of entry no. 7(v) of Notification No. 11/2017-CTR, as the transactions relating to cash and carry model, are neither event-based nor of occasional nature. As regards applicability of entry no. 7(i) of said notification i.e., 'services provided by canteen', AAR noted that two conditions shall be satisfied, i.e., the supply of service made in the canteen belonging to an institution is based on the contractual arrangements with such institution and such supply is not eventbased or occasional. AAR observed that in the present case the services are provided from the canteen and that the entry does not require the ownership of the said premises by the supplier. Further, supply in the present case is not event-based or occasional. Therefore, AAR held that since there is no condition of ownership of premises in said entry no. 7(i), the services supplied by the applicant to employees of Cisco under cash and carry model are covered under said entry. The applicable rate of GST would be 5% subject to the proviso that credit of input tax charged on goods and services used in supplying the service has not been taken.

Annexure-I: Clarification on GST classification and rate of tax for certain Goods vide. Circular No. 113/32/2019-GST dated 11.10.2019

Sl. No.	Type of Goods	HSN	Rate of Tax	Conditions/ Explanation provided
1.	Leguminous vegetables such as grams when subjected to mild heat treatment	713	Exempt [S. No. 45- Notification No. 2/2017-CTR]	Leguminous vegetables which are subjected to mere heat treatment for removing moisture, or for softening and puffing or removing the skin, and not subjecting to any other processing or addition of any other ingredients such as salt and oil.
		713	5% [S. No. 25- Notification No. 1/2017-CTR]	Above referred goods, if branded and packed in a unit container
2.	Almond Milk	2202 99 09	18%	As such almond milk neither constitutes any fruit pulp or fruit juice. Therefore, it is not classifiable under tariff item 2202 99 20.
3.	Applicable GST rate on Mechanical Sprayer	8424	18% [S. No. 195B of SCH-II to Notification No. 1/2017-CTR]	mechanical sprayers were excluded from the ambit of the said S. No. 325 of Schedule III.
4.	Taxability of imported stores by the Indian Navy		Exempt	On the basis of Sec 90(1), 90(2) and 90(3) of the Customs act, it is clarified that the goods taken on board of Naval ships shall be construed as exported to any place outside India. Further, there is an exemption under customs act for the goods imported for Crew of Indian Naval ship.

Annexure-I: Clarification on GST classification and rate of tax for certain Goods vide. Circular No. 113/32/2019-GST dated 11.10.2019 (cont...)

Sl. No.	Type of Goods	HSN	Rate of Tax	Conditions/ Explanation provided
5.	Taxability of goods imported under lease.		Exempt from Import duties – Customs [S. No. 547A; 557A & 557B – N/n. 50/2017- Customs] Taxable under RCM as Import of Service	<p>1. Goods imported on temporary basis, aircrafts, aircraft engines and other aircraft parts imported into India under a transaction covered by item 1(b) or 5(f) of Schedule II of the CGST Act, 2017 are exempted from IGST,</p> <p>2. Similarly, rigs and ancillary items imported for oil or gas exploration and production taken on lease by the importer for use after import have also been exempted</p> <p>3. Subsequently, all goods, vessels, ships (other than motor vehicles) imported under lease, by the importer for use after import, were also exempted.</p> <p><i>All the above exemptions are subject to condition No. 102 of the N/n 50/2017 Customs 30.6.17</i></p>
6.	Applicable GST rate on parts for the manufacture solar water heater and system	2202 99 09	18% [S. No. 234 of SCH-I to Notification No. 1/2017-CTR]	Solar water heater and system would also be covered under S. No 234 as solar power device. Hence, Parts including Solar Evacuated Tube falling under chapter 84, 85 and 94 for the manufacture of solar water heater and system will attract 5% GST.
7.	Applicable GST on parts and accessories suitable for use solely or principally with a medical device	9018, 9019, 9021 or 9022	12%	As per chapter note 2(b) of the Chapter 90, parts and accessories of the instruments used mainly and principally for the medical instrument of chapter 90 shall be classified with the machine only. Thus, as per chapter note 2(b), parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment should be classified with the ophthalmic equipment only and shall attract 12%

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