GST

Amendment in Central Goods and Services Tax Rules, 2017

The Central Government vide *Notification No. 33/2019- CT dated 18th July, 2019* has amended Central Goods and Services Tax Rules, 2017. Amendments made are explained below:

Amendment in Rule	Revised Provision
Sub-rule (1A) of Rule 12 : Insertion of provisions related to TDS	(1A) A person applying for registration to [**deduct or**] collect tax in accordance with the provisions of [**section 51, or, as the case may be**,] section 52, in a State or Union territory where he does not have a physical presence, shall mention the name of the State or Union territory in PART A of the application in FORM GST REG-07 and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A.
Fourth proviso to Rule 46: Exception to issue of consolidated tax invoice	Provided also that a registered person **[other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens,]** may not issue a tax invoice in accordance with the provisions of clause (b) of sub-section (3) of section 31 subject to the conditions. *The amendment shall come into effect from the 1st day of September, 2019.*
Insertion of sub-rule (4A) to Rule 54: Issue of electronic ticket by multiplex screens	**"(4A) A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice for all purposes of the Act, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46:** **Provided that the supplier of such service in a screen other than multiplex screens may, at his option, follow the regular procedure.** *The amendment shall come into effect from the 1st day of September, 2019.*
Insertion of Rule 83B: Surrender of enrolment of goods and services tax practitioner	(1) A goods and services tax practitioner seeking to surrender his enrolment shall electronically submit an application in FORM GST PCT-06, at the common portal, either directly or through a facilitation centre notified by the Commissioner. (2) The Commissioner, or an officer authorised by him, may after causing such enquiry as deemed fit and by order in FORM GST PCT-07, cancel the enrolment of such practitioner.
Amendment in Rule 137	The Authority shall cease to exist after the expiry of [four years] from the date on which the Chairman enters upon his office unless the Council

	recommends otherwise. *Comment: Earlier, there was an expiry period of two years.*
Amendment in Rule 138E	Provided that the Commissioner may, [**on receipt of an application from a registered person in FORM GST EWB-05**] on sufficient cause being shown and for reasons to be recorded in writing, by order, [**in FORM GST EWB-06**] allow furnishing of the said information in PART A of FORM GST EWB 01, subject to such conditions and restrictions as may be specified by him.
Insertion of Form PCT-06: Application For Cancellation of Enrolment as Goods And Services Tax Practitioner **Insertion of Form PCT-07:** Order of Cancellation of Enrolment as Goods And Services Tax Practitioner **Substitution of Statement 5B in Annexure 1 in FORM GST RFD-01** **Substitution of Statement 5B in Annexure 1 in FORM GST RFD-01A** **Insertion of FORM GST EWB-05:** Application for unblocking of the facility for generation of E-Way Bill **Insertion of FORM GST EWB-06:** Order for permitting / rejecting application for unblocking of the facility for generation of E-Way Bill	

Service by way of "giving on hire an electrically operated vehicle meant to carry more than twelve passengers" exempted from GST

The Central Government vide *Notification No. 13/2019- CT (Rate) dated 31st July, 2019* have made following amendment in Notification No.12/2017- Central Tax (Rate), dated the 28th June, 2017:-

Clause (aa) to serial number 22 inserted:-

Services by way of giving on hire –

'(aa) to a local authority, an Electrically operated vehicle meant to carry more than twelve passengers; or

Shall be exempted from the levy of GST subject to the relevant conditions as specified.

Explanation.- For the purposes of this entry, "Electrically operated vehicle" means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.'

Clarification- Issues related to monthly subscription/contribution charged by a Residential Welfare Association(RWA) from its members

The Central Government vide Circular No. 109/28/2019- GST dated 22nd July, 2019 has clarified the following issues that have been raised regarding the GST payable on the amount charged by a Residential Welfare Association for providing services and goods for the common use of its members in a housing society or a residential complex:-

Sl.No.	Issue	Clarification
1.	Are the maintenance charges paid by residents to RWA in a housing society exempt from GST and if yes, is there an upper limit on the amount of such charges for the exemption to be available?	Yes, an amount of Rs. 7500/- per month per member is exempt by way of reimbursement of charges or share of contribution for providing services and goods for the common use of its members in a housing society or a residential complex. This limit was increased from Rs. 5,000/- to 7,500/- per month per member with effect from 25th January 2018.
2.	A RWA has aggregate turnover of Rs.20 lakh or less in a financial year. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than Rs. 7500/- per month per member?	No. If aggregate turnover of an RWA does not exceed Rs.20 Lakh in a financial year, even if the amount of maintenance charges exceeds Rs. 7500/- per month per member. It shall be required to pay GST on monthly subscription/ contribution charged only if such subscription is more than Rs. 7500/- per month per member and the annual aggregate turnover of RWA is also Rs. 20 lakhs or more.
3.	Is the RWA entitled to take ITC of GST paid on input and services used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged is more than Rs. 7,500/- per month per member?	RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.
4.	Where a person owns two or more flats in the housing society or residential complex, whether the ceiling of Rs. 7500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person?	The ceiling of Rs. 7500/- per month per member shall be applied separately for each residential apartment owned by him. Example: A person owns two residential apartments in a residential complex and pays Rs. 15000/- per month as maintenance charges of each apartment (Rs. 7500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.
5.	How should the RWA calculate GST payable where the maintenance charges exceed Rs. 7500/- per month per member? Is the GST payable only on the amount exceeding Rs. 7500/- or on the entire	The exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed Rs. 7500/- per month per member. In case the charges exceed Rs. 7500/-, the entire amount is taxable. For example, if the

	amount of maintenance charges?	maintenance charges are Rs. 9000/- per month per member, GST @18% shall be payable on the entire amount of Rs. 9000/- and not on [Rs. 9000 - Rs. 7500] = Rs. 1500/- .

Clarification in respect of goods sent/taken out of India for exhibition or on consignment basis for export promotion

The activity of sending / taking specified goods out of India is not a supply as per section 7 of the CGST Act as there is no consideration at that point in time. Therefore, the Central Government vide Circular No. 108/27/2019-GST dated 18th July, 2019 clarified following issues being faced by the trade and industry regarding procedure to be followed in respect of goods sent / taken out of India for exhibition or on consignment basis for export promotion:-

Sl.No.	Issue	Clarification
1.	Whether any records are required to be maintained by registered person for sending / taking specified goods out of India?	The registered person dealing in specified goods shall maintain a record of such goods as per the format of the given Annexure.
2.	What is the documentation required for sending / taking the specified goods out of India?	a) The activity of sending / taking specified goods out of India is not a supply. b) The said activity is in the nature of "sale on approval basis" wherein the goods are sent / taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place. c) The specified goods shall be accompanied with a delivery challan. d) Since the activity of sending / taking specified goods out of India is not a zero-rated supply, execution of a bond or LUT, as required under section 16 of the IGST Act, is not required.
3.	When is the supply of specified goods sent / taken out of India said to take place?	a) The specified goods sent / taken out of India are required to be either sold or brought back within the period of 6 months from the date of removal otherwise the supply would be deemed to have taken place if the specified goods are neither sold abroad nor brought back within the said period. b) If the specified goods are sold abroad, fully or partially, within the period of six months, the supply is effected, in respect of quantity so sold, on the date of such sale.
4.	Whether invoice is required to be issued when the specified goods sent / taken out of India are not brought back, either fully or partially, within the stipulated period?	a) When the specified goods sent / taken out of India have been sold fully or partially, within 6 months, the sender shall issue a tax invoice in respect of such quantity of specified goods which has been sold. b) When the specified goods sent / taken out of India have neither been sold nor bought back, fully or

		partially, within 6 months, the sender shall issue a tax invoice on expiry of 6 months from the date of removal, in respect of such quantity.
5.	Whether the refund claims can be preferred in respect of specified goods sent / taken out of India but not brought back?	The activity of sending / taking specified goods out of India is not a zero-rated supply since only such "supplies" which are either "export" or are "supply to SEZ unit / developer" would qualify as zero-rated supply. Therefore, refund claim cannot be preferred under rule 96 of CGST Rules as supply is taking place at a time after the goods have already been sent / taken out of India earlier.

For further detail and illustration, you may refer http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-108.pdf;jsessionid=848B939C6A215426A842948585D5BEB6

Clarification on doubts related to supply of Information Technology enabled Services (ITeS services)

The Central Government vide Circular No. 107/26/2019- GST dated 18th July, 2019 clarified issues related to supply of Information Technology enabled Services (hereinafter referred to as "ITeS services") such as call center, business process outsourcing services, etc. and "Intermediaries". The possible scenarios when a supplier of ITeS services located in India supplies services for and on behalf of a client located abroad have been discussed hereunder:

- **Scenario I:**

  In case the supplier of ITeS services supplies back end services, the supplier will not fall under the ambit of intermediary under section 2(13) of the IGST Act where these services are provided on his own account by such supplier. Even where a supplier supplies ITeS services to customers of his clients on clients" behalf, but actually supplies these services on his own account, the supplier will not be categorized as intermediary. In other words, a supplier "A" supplying services, on his own account to his client "B" or to the customer "C" of his client would not be intermediary.

- **Scenario II:**

  The supplier of backend services located in India arranges or facilitates the supply of goods or services or both by the client located abroad to the customers of client. The supplier of such services will be considered as intermediary under section 2(13) of the IGST Act as these services are merely for arranging or facilitating the supply of goods or services or both between two or more persons. In other words, a supplier "A" supplying backend services as mentioned in this scenario to the customer "C" of his client "B" would be intermediary.

- **Scenario III:**

  In case the supplier of ITeS services supplies back end services on his own account along with arranging or facilitating the supply of various support services during pre-delivery, delivery and post-delivery of supply for and on behalf of the client located abroad, the supplier is supplying two set of services, namely ITeS services and various support services to his client or to the customer of the client. The supplier of such services would fall under the ambit of intermediary will depend on the facts and circumstances of each case. In other words, whether a supplier "A"

supplying services as well as support services listed in Scenario -II above to his client "B" and / or to the customer "C" of his client is intermediary or not would have to be determined in facts and circumstances of each case and would be determined keeping in view which set of services is the principal / main supply.

Thus, it is also clarified that supplier of ITeS services, who is not an intermediary, can avail benefits of export of services if he satisfies the criteria mentioned for "export of services"

Customs

Clarification regarding applicability of Notification No. 45/2017- Customs on goods exported earlier for exhibition purpose/ consignment basis

The Central Government vide Circular No. 21/2019- Customs dated 24th July, 2019 clarified that there is no requirement of filing any LUT/bond in case of goods sent / taken out of India for exhibition or on consignment basis for export promotion. Since such activity is not a supply, the same cannot be considered as 'Zero rated supply' as per the provisions contained in Section 16 of the IGST Act, 2017. Therefore, no integrated tax was required to be paid for specified goods at the time of taking these out of India, the activity being not a supply, hence the said condition requiring payment of integrated tax at the time of re-import of specified goods in such cases is not applicable.

Even in cases where exports have been made for participation in exhibition or on consignment basis, but, such goods exported are returned after participation in exhibition or returned by such consignees without approval or acceptance, the basic requirement of 'supply' cannot be said to be met and such reimport of goods will be exempted from so much of the duty of customs leviable thereon, provided re-import happens before six months from the date of delivery challan.

Clarification regarding Refunds of IGST paid on import in case of risky exporters

The Central Government vide Circular No. 22/2019- Customs dated 24th July, 2019 clarified that there is no requirement of 100% physical examination of each export related to risky exporters, as given in terms of Circular No. 16/2019-Customs dated 17.06.2019, provided no irregularity was noticed in earlier examinations of export consignments of export entities. It has been decided that Risk Management Centre (RMCC) shall take into consideration the feedback received from field formations with regard to the 100% examination conducted on exports of risk based identified entities and wherever the examination has validated the declaration made in the shipping bill, RMCC may review the risk assessment and gradually taper down the percentage of physical examination.

Clarification regarding Refunds of IGST paid on import in case of specialized agencies

The Central Government vide Circular No. 23/2019- Customs dated 1st August, 2019 clarified that the matter wherein specialized agencies have raised the matter of refund of IGST paid on imported goods. Under GST regime, Notification No.16/2017-Central Tax (Rate) dated 28.6.2017 has been issued which inter-alia provides that United Nations or a specified international organisation shall be entitled to claim refund of central tax paid on the supplies of goods or services or both received by them subject to a certificate from United Nations or that specified international organisation that the goods and services have been used or are intended to be used for official use of the United Nations or the specified international. A similar refund mechanism has been provided in respect of integrated tax vide notification No.13/2017-Central Tax (Rate). The above referred notifications envisage payment and then refund of taxes paid and thus specialised agencies ought to get the refund of the IGST paid on imported goods.