

GST Circular on various issues

CBIC has issued various Circulars clarifying various issued as recommended GST Council in its 47th meeting

GST EXEMPTION ON HIRING OF VEHICLE BY COMPANIES FOR TRANSPORTATION OF EMPLOYEES

Sr. No. 15 (b) of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 exempts *"transport of passengers, with or without accompanied belongings, by non air-conditioned contract carriage, other than radio taxi, for transport of passengers, excluding tourism, conducted tour, charter or hire"*.

The Circular clarified that 'charter or hire' excluded from the above exemption entry is charter or hire of a motor vehicle for a period of time, where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.

It is further clarified that said exemption would apply to passenger transportation services by non air-conditioned contract carriages falling under Heading 9964 where according to explanatory notes, transportation takes place over pre-determined route on a pre-determined schedule. The exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

DIFFERENCE BETWEEN RENTING OF MOTOR VEHICLE AND PASSENGER TRANSPORTATION

While clarifying GST incidence, the CBIC clarified that where the body corporate hires the motor vehicle (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the service would fall under Heading 9966 (i.e. renting of motor vehicle designed to carry passengers), and the body corporate shall be liable to pay GST on the same under RCM. It may be seen that reverse charge thus would apply on act of renting of vehicles by body corporate and in such a case, it is for the body corporate to use in the manner as it likes subject to agreement with the person providing vehicle on rent.

However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the service would fall under Heading 9964 (transportation of passengers) and the body corporate shall not be liable to pay GST on the same under RCM.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

GST EXEMPTION ON SERVICES ASSOCIATED WITH TRANSIT CARGO BOTH TO AND FROM NEPAL AND BHUTAN

On the recommendations of the GST Council, CBIC clarified that exemption under Sl. No. 9B of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 covers services associated with transit cargo both to and from Nepal and Bhutan.

The Circular further provided that it should be verified that the empty container returning from Nepal or Bhutan is the same container which was used to deliver goods to Nepal or Bhutan.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

DIFFERENCE BETWEEN GOODS TRANSPORTATION AGENCY (GTA) SERVICES AND RENTING TO TRUCKS

While clarifying for GST rate on transportation of minerals from mining pit to railway siding etc., CBIC clarified that renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator falling under Heading 9966 and not service of transportation of goods by road. It has also been clarified that on such rental services of goods carriages where the cost of fuel is included in the consideration charged from the recipient of service, GST rate has been reduced from 18% to 12% with effect from 18.07.2022. Prior to 18.07.2022, it attracted GST at the rate of 18%.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

GST ON SALE OF DEVELOPED LAND

It has been clarified that since the sale of land is categorized under IIIrd Schedule to CGST Act, 2017 as not a supply, the sale of developed land (i.e. after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc.) would also not attract GST. However, any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

GST RATE ON SUPPLY OF ICE-CREAM BY ICE-CREAM PARLOURS

In continuation of previous clarification, the GST rates are as follows:

Period	GST Rate
Till 05.10.2021	5% without ITC
From 06.10.2021	18% with ITC

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

APPLICABILITY OF GST ON ENTRANCE FEE OR ISSUE OF ELIGIBILITY CERTIFICATE OR MIGRATION CERTIFICATES BY EDUCATIONAL INSTITUTIONS

It is clarified that all services provided by an Educational Institution to its student, faculty or staff including conducting an examination are exempt. Continuing with the said exemption, it has been clarified that amount or fee charged from prospective students for entrance or admission, or for issuance of eligibility certificate to them in the process of their entrance/admission as well as the fee charged for issuance of migration certificates by the Educational Institutions to the leaving or ex-students is covered by exemption under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

APPLICABILITY OF GST ON STORAGE OR WAREHOUSING OF COTTON IN BALED OR GINNED FORM

It is clarified that cotton in baled or ginned form is nothing but raw cotton. Accordingly, it has been clarified that service by way of storage or warehousing of cotton in ginned and or baled form was covered under entry 24B of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 in the category of raw vegetable fibres such as cotton. It may however be noted that this exemption has been withdrawn w.e.f 18.07.2022.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

GST RATE ON SELLING OF SPACE FOR ADVERTISEMENT IN SOUVENIRS

The Circular clarified that souvenir would be covered under the book and hence it clarified sale of space for advertisement in souvenir book is covered under serial number (i) of entry 21 of Notification No. 11/2017-Central Tax (Rate) and attracts GST @ 5%.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

GST ON PREFERENTIAL LOCATION CHARGES

It is clarified that location charges or Preferential Location Charges ('PLC') paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged for long term lease of land and are eligible for the same tax treatment, and thus eligible for exemption under Sl. No. 41 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

GST ON PAYMENT OF HONORARIUM TO GUEST ANCHORS

It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability.

However, guest anchors whose aggregate turnover in a financial year does not exceed Rs 20 lakhs (Rs 10 lakhs in case of special category states) shall not be liable to take registration and pay GST.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

GST ON PAYMENT OF ADDITIONAL TOLL FEE

Concessionaires charge additional toll fee from vehicles not having FASTAG. It is clarified that the additional amount collected from the users of the road not having a functional FASTAG, is in the nature of Toll Charges and should be treated as additional toll charges.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)

GST APPLICABILITY ON PASSENGER TRANSPORTATION THROUGH PRIVATE FERRY

As per Sl. No 17 (d) of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 "transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India" is exempted

It has been clarified that, the expression 'public transport' used in the exemption notification only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.

(Reference: Circular No. 177/09/2022-TRU Dated 03.08.2022)