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GOVERNMENT OF GOA

Department of Finance

Office of the Commissioner of Commercial Taxes

No. CCT/26-4/2023-24/G/1486

Subject: Clarification regarding applicability of GST on certain services—reg.

Ref.: Circular No. 201/13/2023-GST dated 1st August, 2023 issued under Central Goods and Services Tax Act, 2017 by the Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 10/2023-24-GST)

The Department of Revenue, Ministry of Finance, GOI, New Delhi, has issued the above referred circular. For the uniformity and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017), it is hereby directed that the said Circular issued by the Department of Revenue, Ministry of Finance, GOI shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017). Copy of the above referred Circular is attached herewith as Annexure.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 16th August, 2023.

Circular No. 201/13/2023-GST

F. No. 190354/133/2023-TRU

Government of India

Ministry of Finance

Department of Revenue

North Block, New Delhi

Dated the 1st August, 2023.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification regarding applicability of GST on certain services—reg.

Representations have been received seeking clarifications on the following issues:

1. Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge Mechanism;
2. Whether supply of food or beverages in cinema hall is taxable as restaurant service.

The above issues have been examined by GST Council in the 50th meeting held on 11th July, 2023. The issue-wise clarifications as recommended by the Council are given below:

Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge Mechanism:

2. Reference has been received requesting for clarification whether services supplied by a director of a company or body corporate in personal or private capacity, such as renting of immovable property to the company, are taxable under Reverse Charge Mechanism (RCM) or not.

2.1 Entry No. 6 of notification No. 13/2017 CTR dated 28-06-2017 provides that tax on services supplied by director of a company or a body corporate to the said company or the body corporate shall be paid by the company or the body corporate under Reverse Charge Mechanism.

2.2 It is hereby clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017-CTR (Sl. No. 6) dated 28-06-2017.

Whether supply of food or beverages in cinema hall is taxable as restaurant service:

3. References have been received requesting for clarification whether supply of food and beverages at cinema halls is taxable as restaurant service which attract GST at the rate of 5% or not.

3.1 As per Explanation at Para 4 (xxxii) to notification No. 11/2017-CTR dated 28-06-2017, "Restaurant Service" means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied.

3.2 Eating joint is a wide term which includes refreshment or eating stalls/kiosks/counters or restaurant at a cinema also.

3.3 The cinema operator may run these refreshment or eating stalls/kiosks/counters or restaurant themselves or they may give it on contract to a third party. The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

3.4 It is hereby clarified that supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

- a) the food or beverages are supplied by way of or as part of a service, and
- b) supplied independent of the cinema exhibition service.

3.5 It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

4. Difficulties, if any, in implementation of this circular may be brought to the notice of the Board.

(Rajeev Ranjan), Under Secretary (TRU).

No. CCT/26-4/2023-24/G/1487

Subject: Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023—reg.

Ref.: Circular No. 200/12/2023-GST dated 1st August, 2023 issued under Central Goods and Services Tax Act, 2017 by the Tax Research Unit, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 09/2023-24-GST)

The Tax Research Unit (TRU), Department of Revenue, Ministry of Finance, GOI, New Delhi, has issued the above referred circular. For the uniformity and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the said Circular issued by the TRU shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017). Copy of the above referred Circular is attached herewith as Annexure.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.
 Panaji, 16th August, 2023.

Circular No. 200/12/2023-GST

F. No. 190354/140/2023-TRU

Government of India

Ministry of Finance

Department of Revenue

(Tax Research Unit)

North Block, New Delhi

Dated the 1st August, 2023.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023—reg.

Based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023, clarifications with reference to GST levy related to the following items are being issued through this circular:

- i. Un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion;
- ii. Fish Soluble Paste;
- iii. Desiccated coconut;
- iv. Biomass briquettes;
- v. Imitation zari thread or yarn known by any name in trade parlance;
- vi. Supply of raw cotton by agriculturist to co-operatives;
- vii. Plates, cups made from areca leaves;
- viii. Goods falling under HSN heading 9021.

2. Applicability of GST on un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion:

2.1 In the 48th meeting of the GST Council, it was clarified that the snack pellets (such as 'fryums'), which are manufactured through the process of extrusion, are appropriately classifiable under tariff item 1905 90 30, which covers goods with description 'Extruded or expanded products, savoury or salted', and thereby attract GST at the

rate of 18% vide S. No. 16 of Schedule-III of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017.

2.2 In view of the recommendation of the GST Council in the 50th meeting, supply of un-cooked/ un-fried extruded snack pellets, by whatever name called, falling under CTH 1905 will attract GST rate of 5% vide S. No. 99B of Schedule I of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017 with effect from 27th July, 2023. Extruded snack pellets in ready-to-eat form will continue to attract 18% GST under S. No. 16 of Schedule III of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017.

2.2 Further, in view of the prevailing genuine doubts regarding the applicability of GST rate on the un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, the issue for past period upto 27-07-2023 is hereby regularized on "as is" basis.

3. Applicability of GST on Fish Soluble Paste:

3.1 Fish soluble paste attracted 18% under the residual entry S. No. 453 of Schedule III of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017. As per recommendation of the GST Council, GST on fish soluble paste, falling under CTH 2309, has been reduced to 5%. Accordingly, the rate has been notified vide S. No. 108A with effect from 27th July, 2023.

3.2 Further, in view of the prevailing genuine doubts regarding the applicability of GST rate on fish soluble paste, the issue for past period upto 27-07-2023 is hereby regularized on "as is" basis.

4. Desiccated coconut—Regularisation of the issue for past period from 01-07-2017 up to and inclusive of 27-07-2017:

As per recommendation of the GST Council, in view of the prevailing genuine interpretational issues regarding the applicability of GST rate on the desiccated coconut, falling under CTH 0801, the issue for past period from 01-07-2017 up to and inclusive of 27-07-2017 is hereby regularized on "as is" basis.

5. Biomass briquettes—Regularisation of the issue for past period from 01-07-2017 up to and inclusive of 12-10-2017:

As per recommendation of the GST Council, in view of the prevailing genuine interpretational issues regarding the applicability of GST rate on the Biomass briquettes, falling under any chapter, the issue for past period from 01-07-2017 up to and inclusive of 12-10-2017 is hereby regularized on "as is" basis.

6. Supply of raw cotton by agriculturist to co-operatives:

6.1 As per recommendation of the GST Council, it is hereby clarified that supply of raw cotton, including kala cotton, from agriculturists to co-operatives is a taxable supply and such supply of raw cotton by agriculturist to the co-operatives (being a registered person) attracts 5% GST on reverse charge basis under notification No. 43/2017-Central Tax (Rate) dated 14th November, 2017.

6.2 In view of prevailing genuine doubts, the issue for the past periods prior to issue of this clarification is hereby regularized on "as is basis".

7. GST rate on imitation zari thread or yarn known by any name in trade parlance:

7.1 In the 15th Council meeting, the Council agreed to tax embroidery or zari articles i.e., imi, zari, kasab, saima, dabka, chumki, gota, sitara, naqsi, kora, glass beads, badla, gizai at the rate of 5%. Based on the recommendation of the 28th GST Council, it was clarified that imitation zari thread or yarn known as "Kasab" or by any other name in trade parlance, would attract a uniform GST rate of 12% under tariff heading 5605.

7.2 As per the recommendation of the GST Council in its 50th meeting, GST on imitation zari thread or yarn known by any name in trade parlance has been reduced from 12% to 5%. Accordingly, the rate has been notified vide S. No. 218AA with effect from 27th July, 2023.

7.2. In view of the confusion in the trade regarding the applicability of GST rate on these products, the issue for past period upto 27-07-2023 is hereby regularized on "as is" basis.

8. Plates, cups made from areca leaves:

As per the recommendation of the GST Council, issues relating to GST on plates and cups made

from areca leaves are hereby regularized on "as is basis" for the period prior to 01-10-2019.

9. GST rate on goods falling under HSN 9021:

9.1 Representations have been received seeking clarification regarding the GST rates applicable on trauma, spine and arthroplasty implants falling under HSN heading 9021 for the period before 18-07-2022 stating that there are interpretational issues due to the duality of rates on similar items leading to ambiguity. The issue has arisen as prior to 18-07-2022 there existed two rates on the goods falling under HSN heading 9021 as per S. No. 257 of Schedule I and S. No. 221 of Schedule II of notification No. 01/2017-CT (Rate) dated 28-06-2017.

9.2 The issue was examined by GST Council in its 47th meeting and as per its recommendations, a single uniform rate of 5% was prescribed for such goods [except hearing aid, which continued to attract Nil under S. N. 142 of 02/2017-CT(Rate)] falling under HSN heading 9021 with effect from 18-07-2022.

9.3. As per recommendations of the GST council in its 50th Meeting, it is hereby clarified that the GST rate on all such goods falling under heading 9021 would attract a GST rate of 5% and in view of prevailing genuine doubts, the issue for the past periods is hereby regularized on "as is basis". However, it is clarified that no refunds will be granted in cases where GST has already been paid at higher rate of 12%.

10. It is further clarified that no refunds will be granted where GST has already been paid in any of the above cases.

11. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

(Nitin Gupta), Technical Officer (TRU-I).

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