

2.1 Vide Notification No. 16/2020-CT dated 23-03-2020, an Explanation was inserted in sub-rule (10) of Rule 96 of CGST Rules retrospectively with effect from 23-10-2017, which reads as follows:

“Explanation.— For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.”

2.2 A bare perusal of the said Explanation, which was inserted with retrospective effect, reveals that in cases where the benefits of these exemption notifications have not been availed in respect of IGST and compensation cess, it shall be deemed that benefit of the said notifications has not been availed for the purpose of sub-rule (10) of Rule 96 of CGST Rules. Therefore, extension of logic given in the said Explanation may lead to a view that in cases where inputs were initially imported without payment of integrated tax and compensation cess but subsequently, IGST and compensation cess on such imported inputs is paid at a later date, along with interest, then in such cases, it can be considered that the benefits of notifications mentioned in Clause (b) of sub-rule (10) of Rule 96 of CGST Rules have not been availed for the purpose of said sub-rule. Accordingly, refund of IGST claimed on exports made with payment of Integrated tax in such cases may not be considered to be in contravention of provisions of sub-rule (10) of Rule 96 of CGST Rules.

2.3 In view of the above, it is clarified that where the inputs were initially imported without payment of integrated tax and compensation cess by availing benefits under Notification No. 78/2017-Customs dated 13-10-2017 or Notification No. 79/2017-Customs dated 13-10-2017, but subsequently, IGST and compensation cess on such imported inputs are paid at a later date, along with interest, and the Bill of Entry in respect of the import of the said inputs is got reassessed through the jurisdictional Customs authorities to this effect, then the IGST, paid on exports of goods, refunded to the said exporter shall not be considered to be in contravention of provisions of sub-rule (10) of Rule 96 of CGST Rules.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

Sanjay Mangal, Principal Commissioner (GST).

No. CCT/26-4/2024-25/G/3463

Subject: Clarifications regarding applicability of GST on certain services-reg.

Ref.: Circular No. 234/28/2024-GST dated 11th October, 2024 issued under Central Goods and Services Tax Act, 2017 by the Tax Research Unit, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 27/2024-25-GST)

The Tax Research Unit, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation 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 Tax Research Unit, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred circular is attached herewith as Annexure.

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

Given under the seal of this office.

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

Panaji, 01st November, 2024.

ANNEXURE

Circular No. 234/28/2024-GST

F. No. CBIC-190354/149/2024-GST

Government of India
Ministry of Finance
Department of Revenue
(Taxes Research Unit)

North Block, New Delhi, dated the 11th October, 2024
To,

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

Madam/Sir,

Subject: Clarifications regarding applicability of
GST on certain services-reg.

Based on the recommendations of the GST Council in its 54th meeting held on 9th September, 2024, at New Delhi, in exercise of the powers conferred under Section 168(1) of the Central Goods and Services Tax Act, 2017, clarifications on the following issues are being issued through this Circular as under:

2. Applicability of GST on the service of affiliation provided by universities to colleges:

2.1 Representations have been received seeking clarification on the applicability of GST on the service of affiliation provided by universities to colleges.

2.2 The activity of affiliation is to monitor and ensure whether the institution possesses the required infrastructure in terms of space, technical prowess, financial liquidity, faculty strength, etc. and is thereby eligible for the privileges to conduct the course/program of study for the degree/title extended by the University to the students enrolled in such institutions. The affiliation services provided by the universities to colleges are not by way of services related to the admission of students to such colleges or the conduct of examinations by such colleges.

2.3 Thus, as recommended by the 54th GST Council, it is hereby clarified that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions in the notification No. 12/2017-CT(R) dated 28-06-2017 and GST at the rate of 18% is applicable on the affiliation services provided by the universities.

3. Applicability of GST on the service of affiliation provided by Central and State Educational Boards or Councils, or other similar bodies, to schools:

3.1 Representations have been received to clarify the applicability of GST on the service of affiliation provided by the Central and State Educational Boards or Councils, or other similar bodies, to schools and to regularize the payment of tax on such services for the past period.

3.2 The activity of affiliation carried out by educational boards or councils, or other similar bodies, is to monitor and ensure whether the schools possess the required infrastructure, finances, faculty strength etc. and are thereby eligible for the privileges to operate under the aegis of said boards

or councils. The services of affiliation provided to schools by educational boards or councils, or other similar bodies, are not by way of services related to the admission of students to such schools or the conduct of examinations by such schools.

3.3 The matter was placed before the GST Council in its 54th meeting held on 09th September, 2024, and the GST Council recommended to clarify that such services of affiliation, provided to schools by Central or State educational boards or councils, or other similar bodies, by whatever name called, are taxable. At the same time, the GST Council recommended exempting the supply of affiliation services provided by Central and State educational boards or Councils, or other similar bodies, by whatever name called to Government schools i.e. schools established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity. The same has been exempted w.e.f. 10-10-2024 vide notification No. 08/2024-Central Tax (Rate) dated 08-10-2024.

3.4 In its 54th meeting, the GST Council further recommended regularizing the GST liability on such services provided to all schools for the period from 01-07-2017 to 17-06-2021, i.e., the date of issuance of Circular No. 151/07/2021-GST wherein accreditation services of boards are clarified to be taxable at the rate of 18%.

3.5 Therefore, as recommended by the GST Council, it is clarified that services of affiliation, provided to schools by Central or State educational boards or councils, or other similar bodies, by whatever name called, are taxable. Further, as recommended by the Council, the payment of GST on the services of affiliation provided by Central and State educational boards or Councils, or other similar bodies, to all schools is regularized on 'as is where is' basis for the period from 01-07-2017 to 17-06-2021.

4. Applicability of GST on the Directorate General of Civil Aviation (DGCA) approved flying training courses conducted by Flying Training Organizations approved by the DGCA:

4.1 Representations have been received regarding the applicability of GST on the DGCA-approved flying training courses conducted by Flying Training Organizations (FTOs) which are approved by the Directorate General of Civil Aviation (DGCA). The same has been examined.

4.2 Under GST Law, vide Sl. No. 66 of the notification No. 12/2017-Central Tax (Rate) dated 28-06-2017, services provided by educational institutions to its students, faculty and staff are exempt from levy of GST. In the above notification, "educational institution" has been defined to mean an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force.

4.3 In exercise of the power vested by Section 5 of the Aircraft Act, 1934, the Central Government has made the Aircraft Rules, 1937, which, inter-alia, provide for 'approved training', i.e. training the curriculum of which has been approved by the DGCA, and 'approved training organization', i.e. a flying training organization which shall obtain the approval of DGCA before the students are enrolled to acquire flying experience. The said rules further state that flying experience required for the issue of private pilot and commercial pilot licenses shall be acquired at the Flying Training Organization (FTO) approved/recognized by the DGCA. The Civil Aviation Requirements (CAR) issued under the said rules also provide for a completion certificate to be issued by an approved FTO to each student who completes its approved course of training.

4.4 It is evident from the above that the DGCA not only approves FTOs but also flying training courses and mandates the requirement of course completion certificates to be issued to successful candidates in terms of the Aircraft Act, 1934 and the rules prescribed thereunder. Therefore, the approved flying training courses conducted by FTOs approved by DGCA, wherein the DGCA mandates the requirement of a completion certificate, are covered under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017 and are hence, exempt.

5. Regularizing payment of GST on transport of passengers by helicopter:

5.1 54th GST Council has recommended that the GST rate on transportation of passengers, with or without accompanied baggage, by air, in a helicopter on seat share basis may be notified at 5%. Accordingly, notification No. 07/2024-Central Tax (Rate) dated 08-10-2024 effective from 10-10-2024 has been issued.

5.2 The Council further recommended to regularize payment of GST on transportation of passengers, with or without accompanied baggage, by air, in a helicopter on seat share basis on 'as is where is' basis.

5.3 In addition to above, the Council also recommended to clarify that charter of helicopter would continue to attract GST at the rate of 18%.

5.4 Thus, as recommended by the 54th GST Council, payment of GST on transportation of passengers, with or without accompanied baggage, by air, in a helicopter on seat share basis is hereby regularized on 'as is where is' basis for the period from 01-07-2017 to 09-10-2024.

5.5 Further, as recommended by the 54th GST Council, it is hereby clarified that transport of passengers by helicopter on other than seat share basis i.e., for charter operations will continue to attract GST at the rate of 18%.

6. Whether incidental/ancillary services such as loading/unloading, packing, unpacking, trans-shipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency service, being composite supply, or these services are to be treated as separate independent supplies:

6.1 Representations have been received to clarify whether incidental/ancillary services such as loading/unloading, packing, unpacking, trans-shipment, temporary warehousing etc., provided in relation to transportation of goods by road is to be treated as part of Goods Transport Agency (GTA) service, being composite supply, or these services are to be treated as separate independent supplies.

6.2 It has been brought to notice that enforcement agencies are raising demands for such services holding them leviable to GST at the rate of 18% by interpreting last para of Question No. 6 of the FAQ issued by CBIC which states that "*If such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies*", to mean that if a GTA shows packing charges, loading, unloading charges etc., separately in the invoice, the GTA becomes liable to pay GST at the rate of 18% on these services by treating them as cargo handling services.

6.3 After deliberations on the issue and based on recommendations of the 54th GST Council, it is hereby clarified that ancillary or incidental services provided by GTA in the course of transportation of goods by road, such as loading/unloading, packing/

/unpacking, transshipment, temporary warehousing etc. will be treated as composite supply of transport of goods. The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service. However, if such services are not provided in the course of transportation of goods and are invoiced separately, then these services will not be treated as composite supply of transport of goods.

7. Regularizing payment of GST on import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration:

7.1 54th GST Council has recommended to exempt import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration. Accordingly, notification No. 08/2024-Integrated Tax (Rate) dated 08-10-2024 effective from 10-10-2024 has been issued.

7.2 The Council further recommended to regularize payment of GST on import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration for the past period on 'as is where is' basis.

7.3 Therefore, on recommendations of the 54th GST Council, the payment of GST on import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration is hereby regularized for the period from 01-07-2017 to 09-10-2024 on 'as is where is' basis.

8. Applicability of GST on Preferential Location Charges (PLC) collected alongwith consideration for sale/transfer of residential/commercial properties:

8.1 Allowing choice of location of apartment is integral part of supply of construction services and therefore, location charge is nothing but part of consideration charged for supply of construction services before issuance of completion certificate. Being charged along with supply of construction services for the apartment, the same attract GST at same rate as of construction services before issuance of completion certificate.

8.2 Therefore, based on the recommendations of the 54th GST Council, it is hereby clarified that location charges or Preferential Location Charges (PLC) paid along with the consideration for the construction services of residential/commercial/industrial complex forms part of composite supply where supply of construction services is the main

service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply of construction service.

9. Regularizing payment of GST on certain support services provided by an electricity transmission or distribution utility:

9.1 GST Council in its 54th meeting held on 09th September, 2024 has recommended to exempt supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by transmission and distribution utilities to their consumers.

9.2 The same have been exempted vide notification No. 08/2024-Central Tax (Rate) dated 08-10-2024 effective from 10-10-2024.

9.3 The GST Council in its 54th meeting has also recommended to regularize the payment of GST for supply of such services for the period i.e., from 01-07-2017 to 09-10-2024 on 'as is where is' basis.

9.4 Therefore, as recommended by the 54th GST Council, the payment of GST on services provided by an electricity transmission or distribution utility which are incidental or ancillary to the supply of transmission and distribution of electricity by such utility, such as those listed in para 9.1 above is hereby regularized on 'as is where is' basis from 01-07-2017 to 09-10-2024.

10. Regularizing payment of GST on services of film distributors or sub-distributors who act on a principal basis to acquire and distribute films:

10.1 Representations have been received to clarify regarding the GST liability for the period from 01-07-2017 to 01-10-2021 on transaction between distributors and exhibitors wherein the distributors grant the theatrical rights to the exhibition centers. Field formations have viewed that such transaction are classifiable under SAC 9996 and attracts GST at the rate of 18%.

10.2 Prior to 1st October, 2021, GST at the rate of 18% was leviable on "*Motion Picture, video tape and television programme distribution services*" under Heading 9996 whereas 12% rate of GST was leviable on "*temporary or permanent transfer or permitting the use or enjoyment of intellectual property right in respect of goods other than IT technology software*" under Heading 9973. It was observed that both

entries apparently covered services by way of licensing of rights to broad cast or show films. This issue was discussed in the 45th GST Council meeting held on 17-09-2021 wherein, the Council recommended to keep a uniform rate of 18% on both these entries with effect from 01-10-2021.

10.3 The GST Council in its 54th meeting held on 09th September, 2024 has recommended to regularize the payment of GST on transaction between distributors and exhibitors where in the distributors grant the theatrical rights to the exhibition centers on 'as is where is' basis from 01-07-2017 to 30-09-2021.

10.4 Therefore, as recommended by the GST Council, the payment of GST on transaction between distributors and exhibitors where in the distributors grant the theatrical rights to the exhibition centers is regularized for the period from 01-07-2017 to 30-09-2021 on 'as is where is' basis.

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

Sachin Jain, Joint Secretary, TRU-II.

No. CCT/26-4/2024-25/G/3464

Subject: Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 54th meeting held on 9th September, 2024, at New Delhi—reg.

Ref.: Circular No. 235/29/2024-GST dated 11th October, 2024 issued under Central Goods and Services Tax Act, 2017 by the Tax Research Unit, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 28/2024-25-GST)

The Tax Research Unit, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation 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 Tax Research Unit, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred circular is attached herewith as Annexure.

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

Given under the seal of this office.

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

Panaji, 1st November, 2024.

ANNEXURE

Circular No. 235/29/2024-GST

F. No. CBIC-190354/149/2024-TO(TRU-II)-CBEC

Government of India

Ministry of Finance

Department of Revenue

(Tax Research Unit)

North Block, New Delhi, dated the 11th October, 2024

To,

The Principal Chief Commissioners/Principal Directors General,

The Chief Commissioners/Directors General,

The Principal Commissioners/Commissioners of Central Excise & Central Tax.

Subject: Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 54th meeting held on 9th September, 2024, at New Delhi-reg.

Madam/Sir,

Based on the recommendations of the GST Council in its 54th meeting held on 9th September, 2024, at New Delhi, in exercise of the powers conferred under Section 168(1) of the Central Goods and Services Tax Act, 2017, the Board hereby clarifies the following issues through this circular for the purpose of uniformity in their implementation:

1. Clarification regarding GST rate on Extruded/Expanded Savoury food products:

1.1 Representations were received seeking clarification regarding appropriate classification and whether savoury or salted extruded snack pellets are classifiable under HS 2106 as Namkeens due to disputes in the field. Based on the recommendations of GST Council, with effect from 10-10-2024, extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion), falling under HS 1905 90 30 attract GST at the rate of 12% vide entry 32C