

provided in the said proviso that such State name shall be deemed to be the address on record of the recipient.

4.4 A conjoint reading of Clause (b) of sub-section (2) of Section 12 of the IGST Act, sub-section (2) of Section 31 of the CGST Act and proviso to Rule 46(f) of CGST Rules leads to a conclusion that in respect of supply of services made to unregistered persons, irrespective of the value of the said supply, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice, in cases involving supply of online money gaming or supply of taxable services by or through an electronic commerce operator or supply of online information and database access or retrieval (OIDAR) services. Recording of the name of State of the unregistered recipient on the tax invoice in respect of such supply of services shall be deemed as the address on record of the recipient for the purpose of determination of place of supply of the said services under Section 12(2)(b) of IGST Act. Accordingly, in such cases, the place of supply of such services shall be considered as the location of the recipient of the services as per provisions of Clause (i) of Section 12(2)(b) of IGST Act.

4.5 It is also observed that a combined reading of the definitions of 'electronic commerce' and 'electronic commerce operator' as per Section 2(44) and Section 2(45) of CGST Act, along with Rule 46(f) of CGST Rules, leads to an understanding that all services supplied to unregistered recipients over digital or electronic network, either by the supplier using his own digital or electronic facility/platform or through any other electronic or digital platform owned and operated by an independent electronic commerce operator, will be covered under proviso to Rule 46(f) of CGST Rules.

4.5.1 It is, accordingly, clarified that provisions or proviso to Rule 46(f) of CGST Rules shall be applicable in respect of all the online supplies of services supplied to an unregistered recipient, in addition to the supply of online money gaming and OIDAR services. Some of the examples of such services are subscription of e-newspapers and e-magazines, online subscription of entertainment services (e.g. OTT platforms), online Telecom services, digital services through mobile applications etc. Therefore, in respect of supply of any such online digital services, OIDAR services and online money gaming to unregistered recipients, the suppliers are mandatorily required to record the name of the State of the recipient on the tax invoice, irrespective of the value of supply of such services, and to declare place of supply of

the said services as the location of the recipient (based on the name of State of the recipient) in their details of outward supplies in FORM GSTR-1/1A.

4.5.2 For the purpose of recording the name of the State of the recipient on tax invoice in respect of such supplies made to unregistered persons for such online services, supplier should devise suitable mechanism to ensure collection of such details from unregistered recipient before making any supplies to him. As mentioned above, in such cases, the name of the State of the recipient so recorded shall be deemed to be the address of recipient available on record and thus, for determining place of supply of the said services, provisions of Section 12(2)(b)(i) of IGST Act will be applicable as per which the place of supply shall be the location of the recipient.

4.5.3 It is also mentioned that if the supplier fails to issue invoice in accordance with the said provisions by not recording correct mandatory particulars, including recording of name of State of unregistered recipient in respect of such supplies, he may be liable to penal action under the provisions of Section 122(3)(e) of CGST Act.

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

6. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal) Principal Commissioner (GST).

No. CCT/26-4/2024-25/G/4351

Subject: Clarification on various issues pertaining to GST treatment of vouchers-reg.

Ref: Circular No. 243/37/2024-GST dated 31st December, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 35/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes & 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 GST Policy Wing, 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.

Vishant S. N. Gaunekar, Commissioner of State Taxes, Goa.

Panaji, 13th January, 2025.

ANNEXURE

Circular No. 243/37/2024-GST
 F. No. CBIC-20001/14/2024-GST
 Government of India
 Ministry of Finance
 Department of Revenue
 Central Board of Indirect Taxes and Customs
 GST Policy Wing
 North Block, New Delhi, dated the 31st
 December, 2024

To,

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

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification on various issues pertaining to GST treatment of vouchers- reg.

References have been received from the trade and industry as well as the field formations seeking clarity on various issues with respect to vouchers such as whether transactions in voucher are a supply of goods and/or services, whether GST is leviable on trading of vouchers by distributor/sub-distributor and whether unredeemed vouchers (breakage) are taxable. It has been represented that the field formations are taking different views on these issues leading to ambiguity and litigations.

2. Accordingly, in view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by Section 168 (1)

of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues, as below.

3. Issue 1-Whether "transactions in vouchers" falls under the category of supply of goods and/or services?

3.1 The relevant legal provisions of CGST Act, 2017 are as under:

(i) Section 2(52)— "*goods*" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

(ii) Section 2(102)— "*services*" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged.

Explanation.— For the removal of doubts, it is hereby clarified that the expression "*services*" includes facilitating or arranging transactions in securities.

(iii) Section 2(118)— "*voucher*" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.

(iv) Section 2(75)— "*money*" means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognized by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value.

(v) Section 2(1)— "*actionable claim*" shall have the same meaning as assigned to it in Section 3 of the Transfer of Property Act, 1882 (4 of 1882).

Section 3 of the Transfer of Property Act, 1882 provides the definition of "*actionable claim*" as below:-

“actionable claim” means a claim to any debt’ other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent;”

(vi) Section 2(102A)— *“specified actionable claim” means the actionable claim involved in or by way of— (i) betting; (ii) casinos; (iii) gambling; (iv) horse racing; (v) lottery; or (vi) online money gaming”.*

(vii) Section 7—

“...

(2)— *Notwithstanding anything contained in sub-section (1),*

(a) *activities or transactions specified in Schedule III; or*

...

shall be treated neither as a supply of goods nor a supply of services.”

(viii) *Schedule III to the CGST Act deals with “Activities or Transactions which shall be treated neither as a supply of Goods nor a supply of services:*

...

6. *Actionable claims, other than specified actionable claims.*

...

3.2 From the definition of voucher under Section 2(118) of CGST Act, it emerges that

“voucher” may be in nature of payment instrument which creates an obligation on the supplier to accept it as a consideration or part consideration for the supply of goods and/or services. The issuance of payment instruments, including pre-paid instruments, in India is regulated by Reserve Bank of India (RBI) in terms of the Payment and Settlement Act, 2007, RBI's Master Directions and the relevant Notifications/Circulars/Communications issued by the RBI from time to time.

3.3 Pre-paid Instruments (PPIs) as defined by RBI are payment instruments that facilitate purchase of goods and/or services against the value stored on such instruments. The value stored on such instruments represents the value paid for by the holder, by cash, by debit to a bank account, or by credit card. The pre-paid instruments can be issued as cards, wallets and in any such form/instrument which can be used to access the PPI and to use the amount therein. Further, as per Section 2(75) of CGST

Act, “money” includes an instrument recognized by the Reserve Bank of India which is used as a consideration to settle an obligation.

3.4 On combined reading of the definition of “voucher” as per Section 2(118) of the CGST Act, along with definition of “money” as per Section 2(75) of the CGST Act and the description of “pre-paid instruments” given by RBI, it emerges that where the voucher is covered as a pre-paid instrument recognized by the RBI and is used as a consideration to settle an obligation, then in such cases, the voucher will fall under the definition of “money”. In such a case, as “money” is excluded from the definition of goods and services as provided in Section 2(52) and Section 2(102) of the CGST Act respectively, the transactions in voucher would be considered neither as a supply of goods nor as a supply of services.

3.5. In cases, where voucher is not covered as a pre-paid instrument recognized by RBI and hence, cannot be treated as money, the voucher will be in nature of an obligation on the supplier to receive it as consideration or part consideration and assure the beneficiary/voucher holder to claim certain goods and/or services as specified on the voucher or in the related documents. In such cases, the voucher can be considered as an “actionable claim” within the meaning of Section 2(1) of the CGST Act, read with Section 3 of the Transfer of Property Act, 1882.

3.6 Further, as per entry 6 of Schedule III of CGST Act, an activity or transactions of actionable claims, other than specified actionable claims, is to be treated neither as a “supply of goods” nor as a “supply of services”. Further as per Section 2(102A) of CGST Act, specified actionable claim means the actionable claim involved in or by way of betting, casinos, gambling, horse racing, lottery or online money gaming. As vouchers are not covered under definition of specified actionable claim, it appears that they are covered in entry 6 of Schedule III of CGST Act as actionable claims, other than specified actionable claims. Therefore, it appears that even in such a case, transaction in vouchers would be treated neither as a “supply of goods” nor as a “supply of services”.

3.7 Therefore, it is clarified that irrespective of whether voucher is covered as a pre-paid instrument recognized by RBI or not, the voucher is just an instrument which creates an obligation on the supplier to accept it as consideration or part consideration and the transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services. However supply

of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.

Issue 2— What would be the GST treatment of transactions in Vouchers by distributors/sub-distributors/agents etc.?

4.1 There are primarily two models for distribution of vouchers through distributors/sub-distributors/agents, etc.

(i) Where vouchers are distributed through the distributors/sub-distributors/dealers on Principal-to-Principal (P2P) basis.

(ii) Where vouchers are distributed using agents/distributors/sub-distributors on commission/fee basis.

4.2 Where vouchers are distributed through the distributors/sub-distributors/dealers on Principal-to-Principal(P2P) basis: In such cases, the distributor/dealer purchases voucher from the voucher issuer typically at a discounted rate and subsequently sells the same to the sub-distributors, corporates or end customers and generate revenue through a trading margin, which is a difference between the acquisition cost and the selling price of the vouchers by the said distributor/dealer. In such cases, distributors/dealers (including sub-distributors) own the vouchers and operate autonomously with full control over the process from purchase to the final sale of the vouchers to the end user.

4.2.1 As per Section 9 (1) of CGST Act, GST is chargeable on the supply of goods and/or services. As the transaction in vouchers is neither supply of goods nor supply of services, therefore, pure trading of vouchers in this case would not constitute either supply of goods or supply of services. Accordingly, such trading of vouchers would not be leviable to GST as per Section 9 (1) of CGST Act.

4.3 Where vouchers are distributed using distributors/sub-distributors/agents on commission/fee basis: In such cases, the transactions between the voucher issuer and the distributors/sub-distributors/agents are on principal-agency basis. These arrangements, as per contract/agreement between distributor/sub-distributor/agents and the voucher issuer may specify a set of obligations on such agents such as marketing & promotion and other related support activities for distribution of vouchers against a commission/fee or any other amount by whatever name called, for such purpose. In such cases, distributors/sub-distributors/agents

do not operate autonomously, do not own the vouchers and only act as agent of the voucher issuer. In such cases, GST would be payable by such distributor/sub-distributor/agent, acting as an agent of the voucher issuer, on the commission/fee or any other amount by whatever name called, for such purpose, as a supply of services to the voucher issuer.

Issue 3— What would be GST treatment of additional services such as advertisement, co-branding, marketing & promotion, customization services, technology support services, customer support services etc.

5.1 There may be cases where additional services such as advertisement, co-branding, customization services, technology support services, customer support services, etc. are provided by either the distributor/sub-distributor or by another person to the voucher issuer against a service fee/service charge/affiliate charge or any other amount, by whatever name called, as per contract/agreement between such service provider and the service recipient (voucher issuer). In such a case, the said service fee/service charge/affiliate charge or other amount for supply of such additional services to the voucher issuer as per the terms of contract/ /agreement, would be liable to GST at the applicable rate in the hands of the said service provider.

Issue 4— What would be the GST treatment of unredeemed vouchers (breakage).

6.1 Sometimes, vouchers remain unused/ /unredeemed at the end of their expiry period. In such cases, the businesses generally make book adjustments and account the said amount on account of unredeemed vouchers in their statement of income. The value of such unredeemed vouchers accounted for in the statement of income is called breakage. There are ambiguities and doubts in respect of GST treatment of such breakage. Also, doubts are raised whether the amount attributed to the unredeemed voucher (breakage) can be considered as *“monetary value of any act or forbearance, in respect of, in response to, or for the inducement of the supply of goods or services or both, whether by the recipient or by any other person”*.

6.2 As per Section 9 (1) of the CGST Act, GST is leviable only on the supply of goods and/or services. In the case of breakage, there is no redemption of voucher and there is no supply of underlying goods and/or services. Therefore, there is no supply of goods and/or services on account of such unredeemed vouchers (breakage). Also,

“consideration” under GST is defined under Section 2 (31) of CGST Act, in relation to the supply of goods or services or both. As there is no underlying supply of goods and/or services in case of non-redemption of vouchers by the customer, the amount retained for unredeemed vouchers by the voucher issuer cannot be construed as consideration for any supply. Accordingly, such amount attributable to unredeemed vouchers (breakage) would not be taxable as per the provisions of Section 9(1) of CGST Act.

6.3 Further, Circular No. 178/10/2022-GST dated 03-08-2022 clarifies that agreement to do or refrain from an act should not be presumed to exist, and that there must be an express or implied agreement, oral or written, to do or abstain from doing something against payment of consideration, for a taxable supply to exist. Considering the principle laid out in the said circular, it emerges that where the voucher is issued for the purpose or redemption in respect of a supply of goods and/or services and there is no express or implied agreement, oral or

written, between the issuer of voucher and redeemer for payment of any amount or charges by the redeemer to the voucher issuer in case of non-redemption of the voucher, it cannot be considered that non-redemption of voucher by the redeemer tantamounts to supply of services. Therefore, it appears that the amount attributable to non-redemption of voucher (breakage) would not constitute as a “monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person”. Therefore, no GST appears to be payable on such amount attributable to non-redemption of voucher (breakage).

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

8. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Sanjay Mangal) Principal Commissioner (GST).

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Published and Printed by the Director, Printing & Stationery,
Government Printing Press,
Mahatma Gandhi Road, Panaji-Goa 403 001.

PRICE—Rs. 12.00

PRINTED AT THE GOVERNMENT PRINTING PRESS, PANAJI-GOA—330/80—01/2025.