

TAX FLASH NEWS

11 June 2020

GST circular update | Levy of GST on remuneration paid to employee directors

Central Board of Indirect Taxes and Customs (CBIC) have issued a circular¹, clarifying therein that GST will not be leviable on the portion of Director's remuneration which is declared as 'salaries' in the books of accounts of a Company.

Gist of the clarification issued is as under –

a. Independent directors or directors who are not an employee

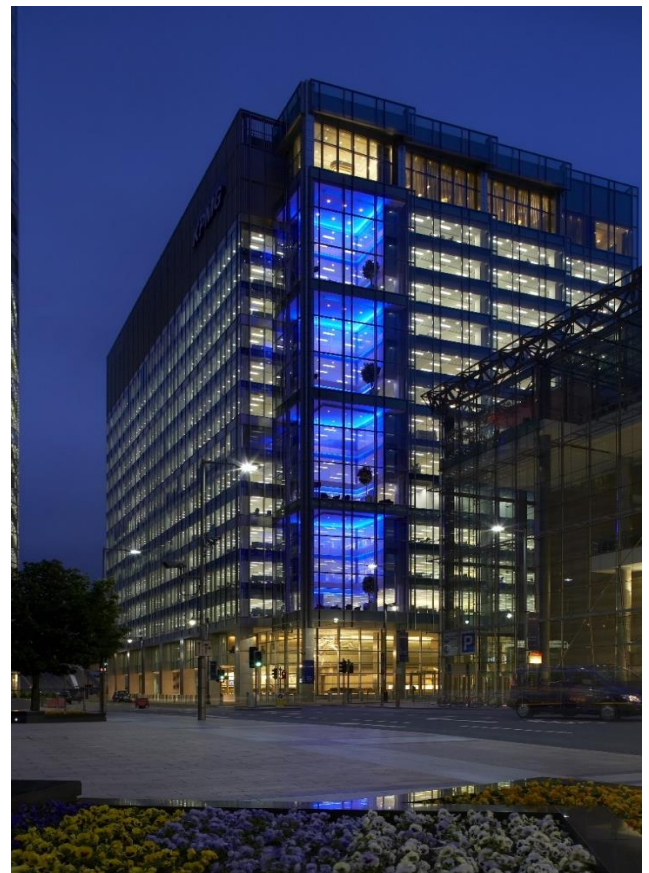
Remuneration paid to directors who are not employees of the company, shall be subject to levy of GST in the hands of the company under the reverse charge mechanism.

b. Directors who are also an employee of the company

- Remuneration on which tax is deducted at source under section 192 (TDS on salary) of the Income-tax Act, GST is not leviable as the said remuneration is paid in the course of or in relation to an employment contract.
- Remuneration which is paid over and above salaries and on which tax is deducted at source under section 194J (TDS on fees for professional or technical services) of the Income-tax Act, GST is payable on such remuneration by the company under the reverse charge mechanism.

Our comments

Post the ruling by the Rajasthan Authority for Advance Ruling in the case of M/s. Clay Craft India Pvt. Ltd., where it was held that remuneration to an employee director is subject to levy of GST under reverse charge mechanism, revenue had issued notices seeking information about the remuneration paid to directors. The circular has provided much required clarity and expected to bring major relief to corporate having employee directors.



¹ Circular no. 140/10/2020 – GST dated 10 June 2020

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