

TAX FLASH NEWS

5 August 2022

CBIC issues clarification on GST rate and exemptions on certain supplies

In the 47th GST Council meeting held on 28-29 June 2022, it was proposed that clarification shall be issued for certain products in relation to dispute on rate classification. To give effect to the decisions of the GST Council, CBIC has issued circulars¹ clarifying applicability of GST on number of goods and services.

Gist of major clarifications

Supply of ice-cream by ice-cream parlors

- With effect from 6 October 2021, ice-cream parlors are required to pay GST on supply of ice-cream at the rate of 18% with ITC.
- To avoid unnecessary litigation, GST paid at the rate of 5% without ITC for the period 1 July 2017 to 5 October 2021 by ice-cream parlors shall be regularized. No refund of GST will be allowed in cases where GST is paid at the rate of 18% during this period.

Services associated with transit cargo both to and from Nepal and Bhutan

- GST on supply of services associated with transit cargo to and from Nepal and Bhutan is exempted w.e.f. 29 September 2017.
- Movement of empty containers to and from Nepal and Bhutan is a service associated with transit cargo to Nepal and Bhutan and is therefore exempt from GST.

Selling of space for advertisement in souvenirs

GST at the rate of 5% will be applicable on selling of space for advertisement in print media. This covers souvenirs published in the form of books by different institutions/organizations like educational institutions, social, cultural and religious organizations including clubs etc.

Vehicles deployed with driver for a specific duration of time

- 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'. Exemption is not available for renting of transport vehicles with operator.
- 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 July 2022. Prior to 18 July 2022, it attracted GST at the rate of 18%.

Location charges or PLC paid upfront in addition to lease premium

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 is eligible for exemption from GST.

¹ CBIC Circular No. 177/09/2022-GST dated 3 August 2022 and CBIC Circular No. 179/11/2022-GST dated 3 August 2022

Payment of honorarium to guest anchors

It is clarified that services provided by guest anchors to TV channels in lieu of honorarium attracts GST.

Additional toll fees from vehicles not having fastag

- Service by way of access to a road or a bridge on payment of toll charges is exempt from GST.
- It is clarified that additional fee collected in the form of higher toll charges from vehicles not having fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same tax treatment as given to toll charges.

Services in form of ART/IVF

It is clarified that services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF) are covered under the definition of health care services under GST and hence exempt from GST.

Sale of land after levelling, laying down of drainage lines etc

- Sale of developed land is also sale of land. It does not attract GST.
- Any service provided for development of land like levelling, laying of drainage lines shall attract GST at applicable rate for such services.

Renting of motor vehicle vis-à-vis passenger transport service availed by body corporate

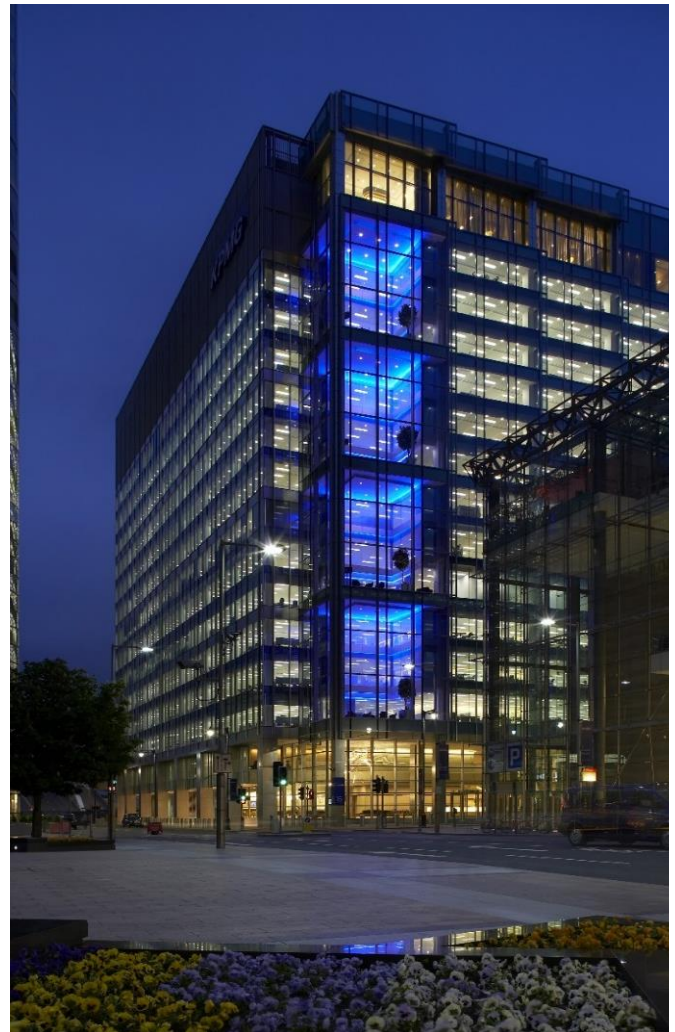
- Where a body corporate hires a motor vehicle for transport of employees etc for a period of time during which the motor vehicle is at the disposal of the body corporate, then these services will fall under 'Renting of motor vehicle with operator for transport of passengers'. In such case, body corporate will be liable to pay GST under reverse charge.
- 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 'Passenger transport services'. In such case, body corporate will not be liable to pay GST under reverse charge.

Transportation of employees by non-air-conditioned contract carriage

- Exemption would apply to passenger transportation services by non-air-conditioned contract carriages where transportation takes place over pre-determined route on a pre-determined schedule.
- Exemption would 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 free to decide the manner of usage subject to conditions of agreement entered into with the service provider.

Our comments

Most of the clarifications are very critical as it will give much required clarity and most importantly avoid unnecessary litigations for both assessee and Government.



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