

INDIRECT TAX

Weekly Digest

10 August 2022
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GOODS & SERVICES TAX

LEGISLATIVE UPDATES

NOTIFICATION

Applicability of E-invoice on taxpayers with turnover exceeding INR 100mn

The Government has extended the requirement of generation of e-invoices for taxpayers having aggregate turnover exceeding INR 100mn, with effect from 1 October 2022 as against the present threshold of INR 200mn. However, the Banking and Non-banking financial companies, Financial Institutions, Goods Transport Agency (GTA), providers of passenger transportation services, Multiplexes and Special Economic Zone (SEZ) units continue to stand exempt from e-invoice requirements.

[Notification no:17/2022 dated 01 August 2022]

CIRCULARS

Clarification regarding applicable GST rates and exemptions on certain services

Representations received on various issues were examined by the GST Council in the 47th meeting held on 28th and 29th June 2022 and clarifications, as recommended by the GST Council, have been issued which are summarized in the ensuing paragraphs:

GST rate on supply of ice cream by ice cream parlours during the period 01 July 2017 to 5 October 2021

- Vide circular no:164/20/2021-GST dated 6 October 2021, it was clarified that ice cream parlours sell already manufactured ice cream and where ice cream is sold by

parlor or any similar outlet, attracts a standard GST rate of 18% with a full input tax credit;

- Now it is clarified that where the ice cream parlors have paid GST@ 5% till 6 October 2021 without claiming ITC, it would be treated as due discharge of GST liability. Further, no refund would be granted, if the tax was paid @ 18% with ITC.

GST rate on the selling of space for advertisement in souvenirs

Sale of space for advertisement in souvenir books is subject to GST @ 5%, at par with the sale of space for advertisement in print media.

GST on the transport of minerals from mining pit head to a railway siding, beneficiation plant, etc. by vehicles deployed with driver for a specific duration

In the cases, where the vehicles are given on hire to the mining lease operator, who bears the expenses for fuel, and the vehicles with driver are at the disposal of the mining lease operator for transport of minerals within the mine area, such services are classifiable as a service of renting of transport vehicles with operator falling under Heading 9966 and not service of transportation of goods by road. Accordingly, such service is not eligible for exemption by treating it as transport of goods by a person other than GTA and will attract GST @ 18% where the cost of fuel is included in the consideration charged from the recipient of service (12% from 18 July 2022).

GST on payment of honorarium to the Guest Anchors

Services provided by the guest anchors in lieu of honorarium attract GST liability. However, guest anchors can claim the benefit of threshold exemption.

Levy of GST on sale of land after levelling, laying down of drainage lines etc.

Sale of developed land is also the sale of land and is covered by entry no:5 of Schedule III of CGST Act and does not attract GST. However, any service provided for the development of land, like levelling, and laying of drainage lines to the developers shall attract GST at the applicable rate for such services.

Levy of GST on renting of motor vehicles under the reverse charge mechanism

- Where the body corporate hires the motor vehicle (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate and it can use the vehicle in the manner as it likes (subject to agreement with the supplier), the services would be classified as services of renting of motor vehicles and the recipient, i.e. body corporate will be liable to pay GST under reverse charge mechanism;
- However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take the vehicle on rent for any particular period, the service would be classified as services of transportation of passengers and the body corporate shall not be liable to pay GST under reverse charge.

Rate of GST on supply of service of construction, supply, installation and commissioning of dairy plant on a turnkey basis

- A contract of the nature of construction, installation and commissioning of a dairy plant constitutes a supply of works contract, as the dairy plant which comes into existence as a result of such contract is an immovable property;
- Such works contract services were eligible for a concessional GST rate of 12% up to 18 July 2022; from 18 July 2022, such works Contract services would attract GST of @18%.

Clarifications concerning eligibility to claim an exemption under exemption notification

Sl. No.	Service description	Clarification
1.	Application fees charged for an entrance examination or issuance of eligibility certificate (for admission) or issuance of migration certificate by educational institutes	<ul style="list-style-type: none"> Amount or fee charged from the prospective students for entrance examination or admission, or for issuance of eligibility certificate in the process of their entrance/admission as well as fees charged for issuance of migration certificates by the educational institutions to the leaving or ex-students is exempt under entry 66 of notification no:12/2017-CT(R) dated 28 June 2017.

2.	Storage or warehousing of cotton in baled or ginned form (Before 18 July 2022)	<ul style="list-style-type: none"> Service by way of storage or warehousing of cotton in ginned and/ or baled form is covered under entry no:24B of notification no:12/2017-CT(R) dated 28 June 2017 and hence exempt from GST until 18 July 2022 (when it was amended).
3.	Applicability of GST on transportation of empty containers returning from Nepal and Bhutan after delivery of transit cargo, to India	<ul style="list-style-type: none"> All the services associated with the movement of transit cargo to and from Nepal and Bhutan are exempt. Movement of empty containers from Nepal and Bhutan, after delivery of goods, therefore, is a service associated with transit cargo to Nepal and Bhutan, and hence, the said service is also exempt from GST.
4.	Sanitation and conservancy services supplied to Army and other Central and State Departments	<ul style="list-style-type: none"> It has been clarified that sanitation and conservancy services supplied to the Indian Army or any other Government Ministry/Department which does not perform any functions listed in the 11th and 12th Schedule, in the manner as a local authority does for the general public, is not eligible for exemption.
5.	Location charges or Preferential Location Charges ('PLC') are collected in addition to the lease premium for a long-term lease of land	<ul style="list-style-type: none"> Location charges or PLC paid upfront in addition to the lease premium for a long term lease of land constitute part of the upfront amount charged for a long term lease of land and are eligible for the same tax treatment as upfront payment for long-term lease of land, and thus, eligible for the exemption given to such upfront amount paid for long term lease of land.
6.	Additional toll fees are collected in the form of higher toll charges from vehicles not having Fastag	<ul style="list-style-type: none"> The additional amount collected from the users of the road not having a functional Fastag, is in the nature of toll charges and should be treated as additional toll charges and hence, exempt from payment of GST.

7.	Services in form of Assisted Reproductive Technology (ART) / In vitro fertilization (IVF)	<ul style="list-style-type: none"> ▪ The abnormality/disease/ailment of infertility is treated using ART procedures such as IVF. It is clarified that services by way of IVF are also covered under the definition of healthcare services and hence, eligible for exemption from GST as available to healthcare services.
8.	The hiring of vehicles by firms for transportation of employees to and from work in non airconditioned contract carriage	<ul style="list-style-type: none"> ▪ The transportation of passengers, taking place over a pre-determined route on a pre-determined schedule is eligible for exemption. ▪ If the 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 (route and schedule) subject to the contractual arrangement, the exemption does not apply as it falls under the exclusion clause of the exemption entry.
9.	Tickets of private ferry used for passenger transportation	<ul style="list-style-type: none"> ▪ This exemption applies to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government. The expression 'public transport' used in the exemption notification only means that the transport should be open to the public and it can be privately or publicly owned. The only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.

BDO Comments

The aforesaid clarifications are set to settle various disputes on the applicability of exemption/tax rates on various services.

[Circular no:177/9/2022-TRU dated 03 August 2022]

Clarification on applicability of GST on Liquidated Damages, Compensation and penalty arising out of breach of contract or other provisions of law

- Entry 5(e) to Schedule II of the Central Goods and Services Tax Act, 2017 ("CGST Act") provides that "Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act" is considered as supply of service. The circular stipulates the following as ingredients of supply under the aforesaid entry:
 - Entry 5(e) to Schedule II of the CGST Act comprises three different set of activities viz., (i) the obligation to refrain from an act; (ii) obligation to tolerate an act or a situation; and (iii) obligation to do an act.
 - Either of three activities must be performed under an "agreement" or a "contract" (express or implied) to specifically carry-out either of the three activities to fall within the ambit of the said entry. Such contractual arrangement must be independent in its own right, either as a standalone contract or as a part of another contract.
 - The said activity must be undertaken for a consideration which flows from one party to another. Moreover, there must exist a necessary and sufficient nexus between the supply (i.e., agreement to do or to abstain from doing something) and the consideration;
- Mere flow of money from one party to another in itself does not pre-suppose existence of above activities in the absence of an express or implied promise by the recipient of money to agree to do or abstain from doing something in return for the money paid to him.
- Payments such as Liquidated Damages for breach of contract, penalties under the mining act for excess stock found with the mining company, forfeiture of salary or payment of amount as per the employment bond for leaving the employment before the minimum agreed period, penalty for cheque dishonour etc. are not a consideration for toleration of an act or situation. They are rather amounts recovered for not tolerating an act or situation and to deter such acts; such amounts are for preventing breach of contract or non-performance and are thus mere 'events' in a contract.
- Further, such amounts paid do not constitute payment (or consideration) for tolerating an act, because there cannot be any contract (a) for breach thereof, or (b) for holding more stock than permitted under the mining contract, or (c) for leaving the employment before the agreed minimum period or (d) for doing something leading to the dishonour of a cheque.
- Basis the above principles, the tax implications of specific transactions are also clarified in the circular, as under:
 - **Liquidated Damages for breach of contract**
 - Breach and non-performance of contract results in loss to other party and by section 73 of the Contract Act, the party who suffered by such breach is entitled to receive compensation for such breach. Such compensation in a written contract for breach of contract is referred to as Liquidated Damages.

- It has been clarified that Liquidated Damages do not constitute a supply and are, therefore, not taxable, if:
 - The amount paid as “Liquidated Damages” is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract; and
 - There is no agreement, express or implied, by the aggrieved party receiving the Liquidated Damages, to refrain from or tolerate an act or to do anything for the party paying the Liquidated Damages
In such cases, Liquidated Damages constitute a mere flow of money but not a supply of service.
- To determine the taxability of Liquidated Damages, one must examine whether the Liquidated Damages constitute “consideration” for another independent contract envisaging the aforesaid activities. For this, it has been clarified that if the payment is merely an event during the performance of the agreement and it does not represent the “object” as such, of the contract then it cannot be regarded as “consideration”.
- **Taxability of fines or penalties in certain cases:**
 - The amounts paid for acceptance of late payment, early termination of the lease or for pre-payment of loan or the amounts forfeited on cancellation of service by the customer as contemplated by the contract as part of commercial terms agreed to by the parties, **constitute consideration for the supply** of a facility, namely, of acceptance of late payment, early termination of a lease agreement, of pre-payment of loan and of making arrangements for the intended supply by the tour operator, respectively.
 - Such payments, even though they may be referred to as fine or penalty, are actually payments that amount to consideration for a supply, and are subject to GST, in cases where such supply is taxable.
 - Since these supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply.
- **Compensation is given to previous allottees of coal blocks for cancellation of their licenses**
It has been clarified that compensation paid for cancellation of coal block licenses pursuant to the order of the Hon’ble Supreme Court as well as the provisions of the Coal Mines (Special Provisions) Act, 2015 was not taxable, in the absence of any agreement between previous allottees of the coal block and the Government to tolerate cancellation of coal block allotted to them on payment of compensation.
- **Cheque dishonor fine / penalty charged**
It has been clarified that the fine or penalty that the supplier or a banker imposes, for the dishonour of a cheque, is not a penalty imposed for tolerating the act or situation but a fine, or penalty imposed for not tolerating, penalizing and thereby deterring and discouraging such an act or situation. Therefore, a cheque dishonor fine or penalty is not a consideration for any service and is not taxable.
- **Penalty imposed for violation laws**
Penalties imposed for violation of laws are not considered for supply received and are not taxable. Further, fines, and penalties are imposed by the Mining Department on discovering mining of excess minerals beyond the permissible limit or mining activities in violation of the mining permit is also a similar case. Such penalties are imposed for violations of laws and cannot be treated as consideration for toleration of an act. Similar clarification was issued in the service tax regime vide circular no:192/02/2016-Service tax dated 13 April 2016.
- **Forfeiture of salary or payment of the Bond amount by an employee leaving the employment before the minimum agreed period**
 - Forfeiture of salary or recovery of the bond amount in the event of the employee leaving the employment before the minimum agreed period forms part of the employment contract to discourage non-serious candidates from taking up employment and to prevent any disruption in work due to premature exit of an employee.
 - The said amounts are recovered by the employer not as consideration for tolerating the act of such premature quitting of employment but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation.
 - Further, the employee does not get anything in return from the employer against payment of such amounts. Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.
- **Late payment charges collected by any service provider for late payment of bills**
The facility of accepting late payments with interest or late payment fee, fine or penalty is a facility granted by supplier naturally bundled with the main supply such as of electricity, water, telecommunication, cooking gas, insurance etc. Accordingly, it should be assessed at the same rate as the principal supply.
- **Fixed charges collected by a power generating company from State Electricity Boards (SEBs) or by SEBs/DISCOMs from the individual customer for the supply of electricity**
The price charged for electricity by the power generating companies from the SEBs/DISCOMs or by SEBs/DISCOMs from individual customers has two components, namely, a minimum fixed charge (or capacity charge) and a variable per unit charge. Both these components are charged for the sale of

electricity and are thus not taxable since the supply of electricity is exempt from GST.

- Cancellation charges recovered by suppliers

- The supplier may allow cancellation of supply by the customer within a certain specified time period on payment of cancellation fee as per commercial terms of the contract. In case the customer does not show up for availing of the service, the supplier may retain or forfeit part of the consideration or security deposit or earnest money paid by the customer for the intended supply.
- Cancellation fee can be considered as the charges for the costs involved in making arrangements for the intended supply and the costs involved in the cancellation of the supply.
- Services such as transportation, travel and tour constitute a bundle of services. The facilitation service of allowing cancellation against payment of cancellation charges is also a natural part of this bundle. It is invariably supplied by all suppliers of passenger transportation services as naturally bundled and in conjunction with the principal supply of transportation in the ordinary course of business.
- It has been clarified that supply of allowing cancellation of an intended supply against payment of cancellation fee or retention or forfeiture of a part or whole of the consideration or security deposit in such cases should be assessed as the principal supply.
- However, forfeiture of earnest money by a seller in case of breach of 'an agreement to sell an immovable property by the buyer or such forfeiture by Government or local authority in the event of a successful bidder failing to act after winning the bid for allotment of natural resources, is a mere flow of money, as the buyer or the successful bidder does not get anything in return for such forfeiture of earnest money. Forfeiture of earnest money is stipulated in such cases not as consideration for tolerating the breach of contract but as compensation for the losses suffered and as a penalty for discouraging the nonserious buyers or bidders. Such payments being merely a flow of money are not a consideration for any supply and are not taxable.

In addition to the above, it has been clarified that the compensation paid by NHAI to the toll operators for not collecting toll charges during the period 8 November 2016 to 1 December 2016, would be treated as exempt, where consideration for such service was paid by a person other than the actual user of service, and therefore, not leviable to Service tax.

BDO Comments

The aforesaid clarifications are a welcome move to settle long-drawn disputes under the GST regime as well as the pre-GST regime concerning the interpretation of the clause "Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act". There have been multiple judicial precedents in legacy laws, where the position as clarified in the above circular has been upheld that there has to be a contractual obligation to act or not to act, for taxability under the above entry.

However, the observation concerning the levy of GST on penalty and fines for amounts paid for acceptance of late payment, pre-payment of loan, cancellation of services, etc. could lead to some ambiguity and various interpretational issues. It would be important to refer to contractual terms before taking any position on this issue.

[Circular no:178/10/2022-GST dated 03 August 2022]

Clarification regarding GST rates and classification of goods

Based on the recommendations of the GST Council in its 47th meeting, the following clarifications have been issued in respect of the applicable GST rate and classification of goods:

Sl. No.	Product Description	Clarification
1.	Electric vehicles whether or not fitted with a battery pack	<ul style="list-style-type: none"> ▪ Electrically operated vehicle to be classified under HSN 8703 even if the battery is not fitted to the such vehicle at the time of supply and it will attract GST @ 5% in terms of entry 242A of Schedule I of notification no:1/2017-CT(R) ("Notification no:1/2017")
2.	Stones otherwise covered in S. No. 123 of Schedule-I (such as Napa stones), which are not mirror polished	<ul style="list-style-type: none"> ▪ Napa Stone is a variety of dimensional limestone, which is a brittle stone and cannot be subject to extensive mirror polishing. Therefore, such minor polished stones do not qualify as mirror polished stones. ▪ Accordingly, it has been clarified that sl. no:123 of Schedule-I to the notification no:1/2017 covers minor polished stones, which would be subject to GST @ 5%.

3.	Classification of Mangoes under CTH 0804	<ul style="list-style-type: none"> Fresh mangoes falling under heading 0804 are exempt. Mangoes, sliced and dried, falling under 0804 are chargeable to a concessional rate of 5%. All other forms of dried mango, including Mango pulp, attract GST at the rate of 12%.
4.	Treated sewage water	<ul style="list-style-type: none"> Treated sewage water was not meant to be construed as falling under “purified” water for the purpose of levy of GST. Accordingly, it is clarified that supply of treated sewage water, falling under heading 2201, is exempt under GST.
5.	Nicotine Polacrilex Gum	<ul style="list-style-type: none"> Nicotine Polacrilex gum, which is commonly applied orally and is intended to assist tobacco use cessation, is appropriately classifiable under tariff item 2404 91 00 with applicable GST rate of 18%.
6.	Fly ash bricks and aggregate (Clarification on condition of 90% fly ash content)	<ul style="list-style-type: none"> As per the 23rd GST Council meeting, the condition of 90% or more fly ash content was applicable only for fly ash aggregate It has been clarified that the condition of 90 per cent or more fly ash content applies only to Fly Ash aggregates and not to fly ash bricks and fly ash blocks. From 18 July 2022, the said condition has been omitted.
7.	By-products of milling Dal/ Pulses such as Chilka, Khanda and Churi	<ul style="list-style-type: none"> Such goods which inter-alia is used as cattle feed ingredient are appropriately classifiable under heading 2302 and attract GST @5%. For the past period, the matter would be regularized on an is basis.

BDO Comments:

The aforesaid clarifications are set to settle various disputes on the applicability of exemption / GST rate on various goods.

[Circular no:179/11/2022-GST dated 03 August 2022]

JUDICIAL UPDATES**ORDERS BY AUTHORITY FOR ADVANCE RULING (AAR)****Supply made in course of business is liable to GST even if made with NIL monetary benefit****Facts of the case**

- M/s. Andhra Pradesh Medical Services & Infrastructure Development Corporation (“Taxpayer”) is engaged in

procurement of drugs, medicines, and surgical equipments on behalf of Government and delivers it to Government Hospitals, and other establishments;

- Taxpayer does not earn any profit on sale of such products and does not intend to have any commercial interest in such activity. Further, the Government reimburses the taxpayer of the actual costs incurred.

Questions before the Authority

- Whether procurement and distribution of drugs, medicines and surgical equipment’s without any value addition and intend to do business amounts to ‘Supply’ under section 7 of CGST Act, 2017?
- Whether establishment charges received from Government is eligible for exemption as per notification no:12/2017-CT(R) dated 28 June 2017 (“exemption notification”)?

Contentions by the Taxpayer

- Taxpayer submitted that since it is established by Government, it qualifies to be a government entity and all the services provided are in relation to public health. Hence, it is eligible for exemption as per exemption notification;
- Taxpayer further submitted that it does not incur any profit or loss on any of the commodities. Accordingly, the remuneration earned is as a pure agent and does not have any commercial intent for the business activity.

Observations and Ruling by the AAR

- AAR opined that profit motive is not necessary in order to classify a transaction as a business activity. Therefore, the procurement and distribution of drugs, medicines and surgical equipments, irrespective of value additions and without profit or loss would qualify as a business activity and is essentially a ‘supply’;
- Since the principal activity involves procurement of goods and not the service component of handling and monitoring of supply, it is not eligible for exemption as per exemption notification.

[AAR-Andhra Pradesh, M/s. Andhra Pradesh Medical Services and Infrastructure Development Corporation, Ruling no:10/AP/GST/2022, dated 30 May 2022]

ORDERS BY APPELLATE AUTHORITY FOR ADVANCE RULING (AAAR)**No ITC shall be claimed on lift procured and installed in hotel building****Facts of the case**

- M/s. Jabalpur Hotels Private Limited (“Taxpayer”) is incorporated with the object of carrying on the business of hotel, restaurant, and cafes, resort, etc. The taxpayer is constructing a 100-room hotel which will be a multi-storied hotel with various amenities including restaurant, swimming pool, spa, marriage lawn, etc. The taxpayer is procuring and installing a lift in the hotel which will be used in the course or furtherance of business, as it is approximately impossible to run a multi-storied hotel without a lift;

- The taxpayer submitted that section 17(5)(d) of CGST Act, 2017 blocks credit of only construction of immovable property other than plant & machinery. Hence, it is clear intent of the lawmakers that they do not wish to block credits of plant or machinery. In the opinion of the taxpayer, although the lift installations are fixed to the building/earth, they qualify as 'plant' or 'machinery' under the CGST Act, 2017, and accordingly, the taxes paid on procurement of lift should not be regarded as blocked credit under section 17(5)(d) of the CGST Act, 2017;
- Further the taxpayer submitted that the lift so installed in the hotel is not a customized lift but a pre-designed lift. These lifts require a specified area in a building and can easily be installed by fastening nut and bolts and other fasteners in the building and no specific modification or alteration is required in the building structure. Thereafter these lifts can be disassembled without causing any structural damage to the building and reassembled on need and can be resold in open market;
- The AAR observed that the lift becomes part of the building and is not a separate thing per-se. A lift does not have an identity when removed from the building. Therefore, the lift cannot be said to be separate from a building. Also, it must be borne in mind that a lift is not an item that is purchased and sold. It is a customized mechanism for transportation, designed to suit a specific building. Upon piece-by-piece installation, it becomes an integral part of the building;
- The AAR held that the ITC of tax paid on lifts procured and installed in hotel building shall not be available to the taxpayer as the same is blocked in terms of section 17(5)(d) of CGST Act, 2017, become an integral part of the building;
- Aggrieved by the ruling the taxpayer approached the AAAR.

Questions before the AAAR

Whether ITC on purchase of lift would be available to hotel as it has been used in the course or for the furtherance of business?

Contentions by the taxpayer

- The AAR in its order considered lift as part of building which is not in accordance with law. Hence should be changed. The AAR was not justified in not allowing ITC of lift which was used for furtherance of business. The AAR erred in law and fact in not considering lift as plant and machinery. The learned AAR erred in interpretation section 17(5) of CGST Act 2017 which is bad in law. The learned AAR defeated the entire basic concept of GST, where there is seamless flow of credit is provided;
- Section 17(5) blocks credit of works contract and goods or services received by a taxable person for construction of an immovable property (other than plant and machinery). As lift/escalator is a machine and it falls under HSN 8428 and hence to be excluded from block credit as specified in section 17(5). The lift installed in the hotel is a hydraulic lift and can be installed and un-installed without

damaging any part of building. Hence, the order of AAR is bad in law.

Observations and Ruling by the AAAR

- The taxpayer has not made any statement regarding capitalization of lift expenses. Lift purchase does not qualify as goods, but it is works contract resulting into an immovable property. High rise buildings and sanctioned plan includes lifts or escalators as fixtures;
- The Judicial citations relied upon by the taxpayer on whether lift would be considered as integral part of the building or not has been have been duly perused and considered, however, the citations are all relating to pre-GST era and since introduction of section 17(5) of the CGST Act, 2017 it has put to rest all such issues in unambiguous terms;
- It has been concluded that the ITC is not admissible on purchase of lift as per the section 17(5)(d) of CGST Act, 2017.

[AAAR- Madhya Pradesh, M/s. Jabalpur Hotels Private Limited, Ruling no:MP/AAAR/04/2020/ dated 23 October 2020]

CENTRAL EXCISE

NOTIFICATION

Reduction of Special Additional Excise Duty on Diesel

Amendment has been made in notification no:04/2022-CE dated 30 June 2022 which prescribed the rates of Special Additional Excise Duty for exports of petrol and diesel. In the said notification following amendment is made in the table:

S. No	Chapter or heading or subheading or tariff item	Description of goods	Existing Rate	Proposed Rate
1	2710	High speed diesel oil	INR. 10 per litre	INR. 4 per litre

This notification shall come into force on the 03 August 2022. [Notification no:21/2022 dated 02 August 2022]

Increase of Special Additional Excise Duty on production of petroleum crude and exemption on export of Aviation Turbine Fuel

Amendment has been made in Notification no:18/2022-CE dated 19 July 2022 which seeks to reduce the Special Additional Excise Duty on production of Petroleum Crude and export of Aviation Turbine Fuel. In the said notification following amendment is made in the table:

S. No.	Chapter or heading or subheading or tariff item	Description of goods	Existing Rate	Proposed Rate
1	2709	Petroleum crude	INR. 17,000 per tonne per tonne	INR. 17,750 per tonne per tonne

2	2710	Aviation Turbine Fuel	INR. 4 per Litre	Nil
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This notification shall come into force on the 03 August 2022.

[Notification no:22/2022 dated 02 August 2022]

CUSTOMS

CIRCULARS

Extension of Customs clearances beyond normal working hours in Inland Container Depot(s)

- As a measure of trade facilitation and the ease of doing business, the CBIC has been enabling the facility of 24x7 Customs clearance across numerous seaports and air cargo complexes across the country. Presently, this facility is available at 20 seaports and 17 airports;
- CBIC is in receipt of representations from the trade for extension of the facility of 24x7 Customs clearance to ICDs across the country, so as to cater to the requirements of the trade. The matter has been duly examined;
- Since the requirements from members of the trade and the local circumstances may vary from place to place, CBIC advises all the Pr. Chief / Chief Commissioners, having jurisdictions over Inland Container Depots (ICDs) to consider having the ICDs within their jurisdictions designated with extended facility of Customs clearance beyond normal working hours in any of the following ways, namely: -
 - The facility of Customs clearance may be made available on a 24x7 basis, similar to the current CBIC guidelines for sea ports and air cargos/airports;
 - The facility of Customs clearance may be extended on all seven (7) days of the week (including holidays), with stipulated timings (say from 9 :30 AM to 6 :00 PM);
 - The facility of Customs clearance may be extended beyond normal working hours for specified days in a week and with specified timings.

The decision to designate an ICD, based on location requirement and resources availability, could be for specified imports viz. goods covered by 'facilitated' Bills of Entry only, or specified exports viz. reefer containers with perishable/temperature sensitive export goods sealed in the presence of Customs officials only or goods exported under free Shipping Bills only, or for all the three categories mentioned;

- For such purpose, the various relevant aspects should be considered, which include, requests from the trade associations, volume of regular imports and exports, nature of import/export commodities, participation of other agencies or entities concerned/involved, importers-exporters, customs brokers. The consultation with custodians be made in relation to arrangements to be made by them for such purposes. If the ICD is not working with waiver of cost recovery charges, it must agree on the aspect of cost recovery charges as well in a proper manner;

- Once a decision to designate an ICD with facility of extended Customs clearances as above is made, the zone must ensure adequate resources to provide the extended facility. Such decision must also be publicized through issuance of holistic Public Notices and appropriate Standing Orders. The Board is to be also informed via email at uscus4.dor@gov.in.

[Circular no:11/2022 dated 29 July 2022]

FOREIGN TRADE POLICY (FTP)

NOTIFICATION

Amendment in import policy of Malonylurea (Barbituric acid) & its salts

Import of Malonylurea (Barbituric acid) and its salts under HS code 29335200 shall be allowed without NOC from Narcotics Commissioner, Gwalior.

[Notification no:23/2015-20 dated 01 August 2022]

Removal of requirement of BIS certification for import of 'Hexane, Food Grade'

The requirement for BIS certification for import of "Hexane, Food Grade" is removed, with immediate effect for the HS code 29021100, against item Cyclanes, cyclones and cycloaterpenes - Cyclohexane.

[Notification no:24/2015-20 dated 04 August 2022]

PUBLIC NOTICE

Addition to the list of agency authorized to issue Certificate of Origin (Non-preferential)

Gem & Jewellery Export Promotion Council (GJEPC), Mumbai is enlisted under appendix 2E of FTP, 2015-20 for issuing Certificate of Origin (Non-Preferential).

[Public notice no:20/2015-20 dated 01 August 2022]

Extension of validity of status certificates issued in FY 2015-16 and 2016-17 under current FTP

Validity of status holder certificates issued in the FY 2015-16 and 2016-17 under the provisions of FTP 2015-20 has been extended upto 30 September 2022.

[Public notice no:21/2015-20 dated 05 August 2022]

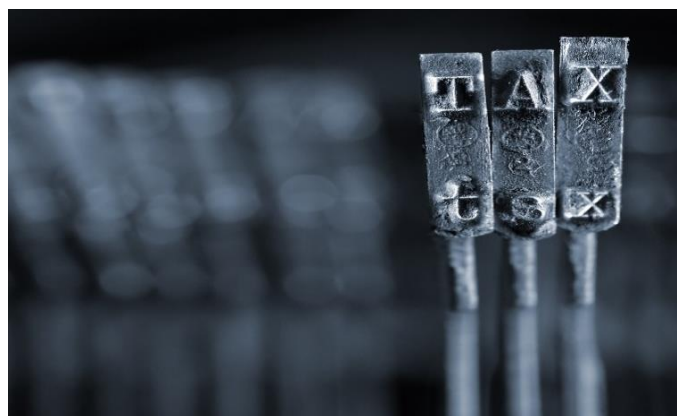
TRADE NOTICE

Extension of date for mandatory electronic filing of Non-Preferential Certificate of Origin (NP CoO) through the common digital platform to 31 March 2023

- It is informed that the transition period for mandatory filing of applications for NPCoO through the e-CoO platform has been further extended till 31 March 2023.
- While the exporters and NP CoO issuing agencies would have the option to use the online system, the same shall not be mandatory till 31 March 2023. The existing systems of processing NP CoO applications in manual/paper mode are being allowed. For guidance on registration and online application submission process, the help manual & FAQs may be seen on the landing page at <https://coo.dgft.gov.in>

- The authorised agencies are therefore required to sensitize the exporting community and their constituents regarding the online system and its registration requirements well in time. Any issues relating to the IT system and its implementation may also be brought to our notice for appropriate action.

[Trade notice no:15/2015-20 dated 01 August 2022]



NEWS FLASH

1. “To tax at 18% or 28%? The GST Conundrum for skill gaming sector”
<https://economictimes.indiatimes.com/small-biz/gst/to-tax-at-18-or-28-the-gst-conundrum-for-skill-gaming-sector/articleshow/93265384.cms>
 [Source: Economic Times, 01 August 2022]
2. “Mandatory GST e-invoicing for firms with Rs 10-crore sales from October”
<https://www.financialexpress.com/economy/mandatory-gst-e-invoicing-for-firms-with-rs-10-crore-sales-from-october/2614578/>
 [Source: Financial, Express, 02 August 2022]
3. “Supreme Court wants states to make DIN mandatory for GST officers”
https://www.business-standard.com/article/economy-policy/supreme-court-wants-states-to-make-din-mandatory-for-gst-officers-122080301516_1.html
 [Source: Business Standard, 03 August 2022]
4. “Explained: What lowering of e-invoicing turnover threshold under GST to 10 crore from Oct 1 seeks to achieve”
<https://indianexpress.com/article/explained/explained-economics/explained-lowering-e-invoicing-threshold-gst-10-cr-oct-1-8068734/>
 [Source: Indian Express, 04 August 2022]
5. “Lack of clarity on GST paid on liquidated damages may lead to litigation”
https://www.business-standard.com/article/economy-policy/lack-of-clarity-on-gst-paid-on-liquidated-damages-may-lead-to-litigation-122080400713_1.html
 [Source: Business Standard, 05 August 2022]

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