

PROFESSIONAL PROGRAMME

SUPPLEMENT

FOR

ADVANCE TAX LAWS & PRACTICE

(INDIRECT TAXES)

(Relevant for Students appearing in December, 2018 Examination)

MODULE 3- PAPER 7

Disclaimer-

This document has been prepared purely for academic purposes only and it does not necessarily reflect the views of ICSI. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.

Students appearing in December, 2018 Examination shall note the following:

- 1. For Direct taxes, Finance Act, 2017 is applicable.*
- 2. Applicable Assessment year is 2018-19 (Previous Year 2017-18).*
- 3. For Indirect Taxes: Goods and Services Tax 'GST' & Customs Law is applicable for Professional Programme*
- 4. Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBIC & Central Government, on or before six months prior to the date of the examination.*

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GOODS & SERVICES TAX (GST)

CENTRAL GOODS & SERVICES TAX ACT, 2017 AND CGST RULES, 2017

NOTIFICATIONS

**Notification No. 67/2017 – Central Tax, dated 21st December, 2017:
Seeks to extend the time limit for filing FORM GST ITC-01**

In pursuance of section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) and clause (b) of sub-rule (1) of rule 40 of the Central Goods and Services Tax Rules, 2017 and in supersession of notification No. 44/2017- Central Tax, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1258 (E), dated the 13th October, 2017, except as respects things done or omitted to be done before such supersession, the Commissioner, hereby extends the time limit for making a declaration, in FORM GST ITC-01, by the registered persons, who have become eligible during the months of July, 2017, August, 2017, September, 2017, October, 2017 and November, 2017 to the effect that they are eligible to avail the input tax credit under sub-section (1) of section 18 of the said Act, till the 31st day of January, 2018.

**Notification No. 68/2017 – Central Tax, dated 21st December, 2017:
Seeks to extend the time limit for filing FORM GSTR-5**

In exercise of the powers conferred by sub-section (6) of section 39 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) and in supersession of notification No. 60/2017-Central Tax, dated the 15th November, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1416 (E), dated the 15th November, 2017, except as respects things done or omitted to be done before such supersession, the Commissioner hereby extends the time limit for furnishing the return by a non-resident taxable person, in FORM GSTR-5, under sub-section (5) of section 39 of the said Act read with rule 63 of the Central Goods and Services Tax Rules, 2017 for the months of July, 2017, August, 2017, September, 2017, October, 2017, November, 2017 and December, 2017 till the 31st day of January, 2018.

**Notification No. 69/2017 – Central Tax, dated 21st December, 2017:
Seeks to extend the time limit for filing FORM GSTR-5A**

In exercise of the powers conferred by sub-section (6) of section 39 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and in supersession of notification No. 61/2017-Central Tax, dated the 15th November, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1417 (E), dated the 15th November, 2017, except as respects things done or omitted to be done before such supersession, the Commissioner, hereby extends the time limit for furnishing the return in FORM GSTR-5A for the months of July, 2017, August, 2017, September, 2017, October, 2017, November, 2017 and December, 2017 by a person supplying online information and database access or retrieval services from a place outside India to a nontaxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 and rule 64 of the Central Goods and Services Tax Rules, 2017, till the 31st day of January, 2018.

Notification No. 71/2017 – Central Tax, dated 29th December, 2017:
Extends the due dates for quarterly furnishing of FORM GSTR-1 for taxpayers with aggregate turnover of upto Rs.1.5 crore

In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), and in supersession of notification No. 57/2017 – Central Tax dated the 15th November, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1413 (E), dated the 15th November, 2017, except as respects things done or omitted to be done before such supersession, the Central Government, on the recommendations of the Council, notifies the registered persons having aggregate turnover of upto 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who may follow the special procedure as detailed below for furnishing the details of outward supply of goods or services or both.

Quarter for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
July - September, 2017	10th January, 2018
October - December, 2017	15th February, 2018
January - March, 2018	30th April, 2018

Notification No. 72/2017 – Central Tax, dated 29th December, 2017:
Extends the due dates for quarterly furnishing of FORM GSTR-1 for taxpayers with aggregate turnover of more than Rs.1.5 crores

In exercise of the powers conferred by the second proviso to subsection (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter in this notification referred to as the Act) and in supersession of notification No. 58/2017 – Central Tax dated the 15th November, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1414 (E), dated the 15th November, 2017, except as respects things done or omitted to be done before such supersession, the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 under sub-section (1) of section 37 of the Act

Months for which the details in FORM GSTR-1 are furnished	Time period for furnishing the details in FORM GSTR-1
July - November, 2017	10th January, 2018
December, 2017	10th February, 2018
January, 2018	10th March, 2018
February, 2018	10th April, 2018
March, 2018	10th May, 2018

Notification No. 1/2018: Central Tax, dated 1st January, 2018:
Effective rate of tax under composition scheme for manufacturers and other suppliers.

In exercise of the powers conferred by sub-section (1) of section 10 of the Central Goods and Services Tax Act, 2017 (12 of 2017) the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.8/2017- Central Tax, dated the 27 th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide

number G.S.R. 647 (E), dated the 27 th June, 2017, namely:- In the said notification, in the opening paragraph, -

(a) in clause (i), for the words “one per cent.”, the words “half per cent.” shall be substituted;

(b) in clause (iii), for the words “half per cent. of the turnover”, the words “half per cent of the turnover of taxable supplies of goods” shall be substituted.

**Notification No. 4/2018: Central Tax, dated 23rd January, 2018:
Reduction of late fee in case of delayed filing of FORM GSTR-1**

Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable by any registered person for failure to furnish the details of outward supplies for any month/quarter in FORM GSTR-1 by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues:

Provided that where there are no outward supplies in any month/quarter, the amount of late fee payable by such registered person for failure to furnish the said details by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

**Notification No. 5/2018: Central Tax, dated 23rd January, 2018:
Reduction of late fee in case of delayed filing of FORM GSTR-5**

Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR5 by the due date under section 47 of the said Act, which is in excess of an amount of twenty five rupees for every day during which such failure continues:

Provided that where the total amount of central tax payable in the said return is nil, the amount of late fee payable by such registered person for failure to furnish the said return by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

**Notification No. 7/2018: Central Tax, dated 23rd January, 2018:
Reduction of late fee in case of delayed filing of FORM GSTR-6**

Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR6 by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues.

**Notification No. 15/2018: Central Tax, dated 23rd March, 2018:
Notifies the date from which E-Way Bill rules shall come into force**

Central Government hereby appoints the 1st day of April, 2018, as the date from which the provisions of sub-rules (ii) [other than clause (7)], (iii), (iv), (v), (vi) and (vii) of rule 2 of notification No. 12/2018 – Central Tax, dated the 7th March, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 204 (E), dated the 7th March, 2018, shall come into force.

**Notification No. 17/2018: Central Tax, dated 28th March, 2018:
Due date for quarterly furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of upto Rs.1.5 crore**

Central Government, on the recommendations of the Council, hereby notifies the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who shall furnish the details of outward supply of goods or services or both in FORM GSTR-1 effected during the quarter April to June, 2018 till the 31st day of July, 2018.

**Notification No. 18/2018: Central Tax, dated 28th March, 2018:
Due dates for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover of more than Rs. 1.5 crores**

The Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 under sub-section (1) of section 37 of the Act for the months as specified in column (2) of the Table, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, till the time period as specified in the corresponding entry in column (3) of the said Table, namely:

S. No.	Month	Last date for filing of return in FORM GSTR-1
(1)	(2)	(3)
1.	April 2018	31 st May, 2018
2.	May, 2018	10 th June, 2018
3.	June, 2018	10 th July, 2018

**Notification No. 24/2018: Central Tax, dated 28th May, 2018:
Notify NACIN as the authority for conducting the examination for GST Practitioners under rule 83 (3) of the CGST Rules, 2017**

In exercise of the powers conferred by section 48 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (3) of rule 83 of the Central Goods and Services Tax Rules, 2017, the Commissioner, on the recommendations of the Council, hereby notifies the National Academy of Customs, Indirect Taxes and Narcotics, Department of Revenue, Ministry of Finance, Government of India, as the authority to conduct the examination as per the said sub-rule.

**Notification No. 25/2018: Central Tax, dated 31st May, 2018:
Extend the due date for filing of FORM GSTR-6 for the months from July, 2017 till June, 2018.**

The Commissioner hereby extends the time limit for furnishing the return by an Input Service Distributor in FORM GSTR-6 under sub-section (4) of section 39 of the said Act read with rule 65 of the Central Goods and Services Tax Rules, 2017, for the months of July, 2017 to June, 2018, till the 31st day of July, 2018.

**Notification No. 03/2018: Central Tax (Rate), dated 25th January, 2018:
Specify services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a registered person under CGST Act, 2017 to be taxed under Reverse Charge Mechanism (RCM)**

Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.13/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 692(E), dated the 28th June, 2017, namely:-

In the said notification,- (i) in the Table, after serial number 5 and the entries relating thereto, the following serial number and the entries relating thereto shall be inserted, namely:-

(1)	(2)	(3)	(4)
5A	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017.

**Notification No. 04/2018: Central Tax (Rate), dated 25th January, 2018:
Special procedure with respect to payment of tax by registered person supplying service by way of construction against transfer of development right and vice versa.**

Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely:-

(a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and

(b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights,

as the registered persons in whose case the liability to pay central tax on supply of the said services, on the consideration received in the form of construction service referred to in clause (a) above and in the form of development rights referred to in clause (b) above, shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

**Notification No. 10/2018: Central Tax (Rate), dated 23rd March, 2018:
To exempt payment of tax under section 9(4) of the CGST Act, 2017 till 30.06.2018.**

The Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, defers the applicability of provisions of reverse charge mechanism as contained in section 9(4) of CGST Act, 2017 (RCM from unregistered persons) till 30th June 2018.

CENTRAL GOODS & SERVICES TAX ACT, 2017 AND CGST RULES, 2017

CIRCULARS/ ORDER

Circular No. 22/2017, dated 21st December, 2017:

Clarification on issues regarding treatment of supply by an artist in various States and supply of goods by artists from galleries

1. Various representations have been received regarding taxation of the supply of art works by artists in different States other than the State in which they are registered as a taxable person. In such cases, if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply. It has been represented that the artists give their work of art to galleries where it is exhibited for supply. There seems to be confusion regarding the treatment of this activity whether it is taxable in the hands of the artist when the same is given to the art gallery or at the time of actual supply by the gallery. Therefore, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter.
2. It is seen that clause (c) of sub-rule (1) of rule 55 of the Central Goods and Services Tax Rules, 2017 (hereafter referred as “the said Rules”) provides that the supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply. Further, sub-rule (3) of the said rule provides that the said delivery challan shall be declared as specified in rule 138 of the said Rules. It is also seen that sub-rule (4) of rule 55 of the said Rules provides that where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.
3. A combined reading of the above provisions indicates that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the away bill wherever applicable and the invoice may be issued at the time of actual supply of art work.
4. It is also clarified that the supplies of the art work from one State to another State will be inter-State supplies and attract integrated tax in terms of section 5 of the Integrated Goods and Services Tax Act, 2017.
5. It is further clarified that in case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

Circular No. 23/2017, dated 21st December, 2017:

Issues in respect of maintenance of books of accounts relating to additional place of business by a principal or an auctioneer for the purpose of auction of tea, coffee, rubber etc

1. Various communications have been received regarding the difficulties being faced by a principal and an auctioneer in relation to maintaining books of accounts at each and every additional place of business related to stock of goods like tea, coffee, rubber, etc. meant for supply through an auction. Therefore, in exercise of the powers conferred under section 168 (1) of the Central Goods

and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter.

2. As per the first proviso of section 35(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') both the principal and the auctioneer are required to maintain the books of accounts relating to their additional place(s) of business in such places. It has been represented that both the principal as well as the auctioneer may be allowed to maintain the books of accounts relating to the additional place(s) of business at their principal place of business itself.
3. The issue has been examined. In exercise of the powers conferred under section 168 (1) of the CGST Act, for the purpose of uniformity in the implementation of the Act, it is hereby clarified that –
 - a) The principal and the auctioneer of tea, coffee, rubber etc. are required to declare warehouses where such goods are stored as their additional place of business. The buyer is also required to disclose such warehouse as his additional place of business if he wants to store the goods purchased through auction in such warehouses.
 - b) Both the principal and the auctioneer are required to maintain the books of accounts relating to each and every place of business in that place itself as per the first proviso to sub-section (1) of section 35 of the CGST Act. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s).
 - c) Such principal or auctioneer shall intimate their jurisdictional proper officer in writing about the maintenance of books of accounts relating to additional place(s) of business at their principal place of business.
 - d) Further, the principal or the auctioneer shall be eligible to avail input tax credit (ITC) subject to the fulfilment of other provisions of the Act and the rules made thereunder.
4. It is further clarified that this Circular is applicable to the supply of tea, coffee, rubber, etc. where the auctioneer claims ITC in respect of the supply made to him by the principal before or after the auction of such goods and the said goods are supplied only through auction.

**Circular No. 27/2017, dated 4th January, 2018:
Clarifications regarding levy of GST on accommodation services, betting and gambling in casinos, horse racing, admission to cinema, homestays, printing, legal services etc.**

Representations were received from trade and industry for clarification on certain issues regarding levy of GST on supply of services

In this context, it is stated that the following clarifications, inter-alia, were published as FAQ at <http://www.cbec.gov.in/resources/htdocs-cbec/gst/om-clarification.pdf>.

S. No.	Questions/ Clarifications sought	Clarifications
1	1. Will GST be charged on actual tariff or declared tariff for accommodation services? 2. What will be GST rate if cost goes up (more than declared tariff) owing to	1. Declared or published tariff is relevant only for determination of the tax rate slab. GST will be payable on the actual amount charged (transaction value).

	<p>additional bed?</p> <p>3. Where will the declared tariff be published?</p> <p>4. Same room may have different tariff at different times depending on season or flow of tourists as per dynamic pricing. Which rate to be used then?</p> <p>5. If tariff changes between booking and actual usage, which rate will be used?</p> <p>6. GST at what rate would be levied if an upgrade is provided to the customer at a lower rate?</p>	<p>2. GST rate would be determined according to declared tariff for the room, and GST at the rate so determined would be levied on the entire amount charged from the customer. For example, if the declared tariff is Rs. 7000 per unit per day but the amount charged from the customer on account of extra bed is Rs. 8000, GST shall be charged at 18% on Rs. 8000.</p> <p>3. Tariff declared anywhere, say on the websites through which business is being procured or printed on tariff card or displayed at the reception will be the declared tariff. In case different tariff is declared at different places, highest of such declared tariffs shall be the declared tariff for the purpose of levy of GST.</p> <p>4. In case different tariff is declared for different seasons or periods of the year, the tariff declared for the season in which the service of accommodation is provided shall apply.</p> <p>5. Declared tariff at the time of supply would apply.</p> <p>6. If declared tariff of the accommodation provided by way of upgrade is Rs 10000, but amount charged is Rs 7000, then GST would be levied @ 28% on Rs 7000/-.</p>
2	<p>Vide notification No. 11/2017-Central Tax (Rate) dated the 28th June 2017 entry 34, GST on the service of admission into casino under Heading 9996 (Recreational, cultural and sporting services) has been levied @ 28%. Since the Value of supply rule has not specified the method of determining taxable amount in casino, Casino Operators have been informed to collect 28% GST on gross amount collected as admission charge or entry fee. The method of levy adopted needs to be clarified.</p>	<p>Relevant part of entry 34 of the said CGST notification reads as under:</p> <p><i>“Heading 9996 (Recreational, cultural and sporting services) - ...</i></p> <p><i>(iii) Services by way of admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, theme parks, water parks, joy rides, merry-go rounds, gocarting, casinos, race-course, ballet, any sporting event such as Indian Premier League and the like. - 14%</i></p> <p><i>(iv)...</i></p> <p><i>(v) Gambling. - 14 %”</i></p> <p>As is evident from the notification, “entry to casinos” and “gambling” are two different services, and GST is leviable at 28% on both these services (14% CGST and 14% SGST) on the value determined as per section 15 of the CGST Act. Thus, GST @ 28% would apply on entry to casinos as well as on betting/ gambling services being provided by casinos on the</p>

		transaction value of betting, i.e. the total bet value, in addition to GST levy on any other services being provided by the casinos (such as services by way of supply of food/ drinks etc. at the casinos). Betting, in pre-GST regime, was subjected to betting tax on full bet value.
3	The provision in rate schedule notification No. 11/2017-Central Tax (Rate) dated the 28th June 2017 does not clearly state the tax base to levy GST on horse racing. This may be clarified.	GST would be leviable on the entire bet value i.e. total of face value of any or all bets paid into the totalisator or placed with licensed book makers, as the case may be. Illustration: If entire bet value is Rs. 100, GST leviable will be Rs. 28/-
4	<p>1. Whether for the purpose of entries at Sl. Nos. 34(ii) [admission to cinema] and 7(ii)(vi)(viii) [Accommodation in hotels, inns, etc.], of notification 11/2017-CT (Rate) dated 28th June 2017, price/ declared tariff includes the tax component or not?</p> <p>2. Whether rent on rooms provided to in-patients is exempted? If liable to tax, please mention the entry of CGST Notification 11/2017- CT(Rate)</p> <p>3. What will be the rate of tax for bakery items supplied where eating place is attached - manufacturer for the purpose of composition levy?</p>	<p>1. Price/ declared tariff does not include taxes.</p> <p>2. Room rent in hospitals is exempt.</p> <p>3. Any service by way of serving of food or drinks including by a bakery qualifies under section 10 (1) (b) of CGST Act and hence GST rate of composition levy for the same would be 5%.</p>
5	Whether homestays providing accommodation through an Electronic Commerce Operator, below threshold limit are exempt from taking registration?	Notification No. 17/2017-Central Tax (Rate), has been issued making ECOs liable for payment of GST in case of accommodation services provided in hotels, inns guest houses or other commercial places meant for residential or lodging purposes provided by a person having turnover below Rs. 20 lakhs (Rs. 10 lakhs in special category states) per annum and thus not required to take registration under section 22(1) of CGST Act. Such persons, even though they provide services through ECO, are not required to take registration in view of section 24(ix) of CGST Act, 2017.
6	<p>To clarify whether supply in the situations listed below shall be treated as a supply of goods or supply of service: -</p> <p>1. The books are printed/ published/ sold on procuring copyright from the author or his legal heir. [e.g. White Tiger Procures copyright from Ruskin Bond]</p> <p>2. The books are printed/ published/ sold</p>	The supply of books shall be treated as supply of goods as long as the supplier owns the books and has the legal rights to sell those books on his own account.

	against a specific brand name. [e.g. Manorama Year Book] 3. The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian edition (same language) of foreign books. [e.g. Penguin (India) Ltd. pays fees to Routledge (London)] The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian language edition (translated). [e.g. Ananda Publishers Ltd. pays fees to Penguin (NY)]	
7	Whether legal services other than representational services provided by an individual advocate or a senior advocate to a business entity are liable for GST under reverse charge mechanism?	Yes. In case of legal services including representational services provided by an advocate including a senior advocate to a business entity, GST is required to be paid by the recipient of the service under reverse charge mechanism, i.e. the business entity.

**Circular No. 28/2018, dated 8th January, 2018:
Clarifications regarding GST on College Hostel Mess Fees**

Queries have been received seeking clarification regarding the taxability and rate of GST on services by a college hostel mess. The clarification is as given below:

The educational institutions have mess facility for providing food to their students and staff. Such facility is either run by the institution/ students themselves or is outsourced to a third person. Supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit [Serial No. 7(i) of notification No. 11/2017-CT (Rate) as amended vide notification No. 46/2017-CT (Rate) dated 14.11.2017 refers]. It is immaterial whether the service is provided by the educational institution itself or the institution outsources the activity to an outside contractor.

**Circular No. 32/2018, dated 12th February, 2018:
Clarifications regarding GST in respect of certain services as decided in 25th GST Council meeting.**

Clarifications regarding GST in respect of certain services:

S. No.	Issue	Clarifications
1	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate).	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees

		per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) refers]
2	<p>Is GST leviable on the fee/amount charged in the following situations/cases: – (1) A customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices.</p> <p>These fees are credited into State Customer Welfare Fund's bank account. (2) Consumer Disputes Redressal Commission office and its subordinate offices charge penalty in cash when it is required. (3) When a person files an appeal to Consumers Disputes Redressal Commission against order of District Forum, amount equal to 50% of total amount imposed by the District Forum or Rs 25000/- whichever is less, is required to be paid.</p>	<p>Services by any court or Tribunal established under any law for the time being in force is neither a supply of goods nor services. Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution. However, they are clothed with the characteristics of a tribunal on account of the following: - (1) Statement of objects and reasons as mentioned in the Consumer Protection Bill state that one of its objects is to provide speedy and simple redressal to consumer disputes, for which a quasijudicial machinery is sought to be set up at District, State and Central levels. (2) The President of the District/ State/National Disputes Redressal Commissions is a person who has been or is qualified to be a District Judge, High Court Judge and Supreme Court Judge respectively. (3) These Commissions have been vested with the powers of a civil court under CPC for issuing summons, enforcing attendance of defendants/witnesses, reception of evidence, discovery/production of documents, examination of witnesses, etc. (4) Every proceeding in these Commissions is deemed to be judicial proceedings as per sections 193/228 of IPC. (5) The Commissions have been deemed to be a civil court under CrPC. (6) Appeals against District Commissions lie to State Commission while appeals against the State Commissions lie to the National Commission. Appeals against National Commission lie to the Supreme Court. In view of the aforesaid, it is hereby clarified that fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.</p>
3	Whether the services of elephant or camel ride, rickshaw ride and boat ride should be classified under heading 9964 (as passenger transport service) in which case, the rate of tax on such services will be 18% or under the	Elephant/ camel joy rides cannot be classified as transportation services. These services will attract GST @ 18% with threshold exemption being available to small service providers. [Sl. No 34(iii) of

	heading 9996 (recreational, cultural and sporting services) treating them as joy rides, leviable to GST@ 28%?	notification No. 11/2017-CT(Rate) dated 28.06.2017 as amended by notification No. 1/2018-CT(Rate) dated 25.01.2018 refers]
4	What is the GST rate applicable on rental services of self-propelled access equipment (Boom Scissors/ Telehandlers)? The equipment is imported at GST rate of 28% and leased further in India where operator is supplied by the leasing company, diesel for working of machine is supplied by customer and transportation cost including loading and unloading is also paid by the customer.	Leasing or rental services, with or without operator, for any purpose are taxed at the same rate of GST as applicable on supply of like goods involving transfer of title in goods. Thus, the GST rate for the rental services in the given case shall be 28%, provided the said goods attract GST of 28%. IGST paid at the time of import of these goods would be available for discharging IGST on rental services. Thus, only the value added gets taxed. [Sl. No 17(vii) of notification No. 11/2017-CT(Rate) dated 28.6.17 as amended refers].
5	<p>Is GST leviable in following cases:</p> <p>(1) Hospitals hire senior doctors/ consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer employee relationship. Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST?</p> <p>(2) Retention money: Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs. 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money retained by the hospitals?</p> <p>(3) Food supplied to the patients: Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged,</p>	<p>Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt. [Sl. No. 74 of notification No. 12/2017-CT (Rate) dated 28.06.2017 as amended refers].</p> <p>(1) Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt.</p> <p>(2) Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India[para 2(zg) of notification No. 12/2017- CT(Rate)]. Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt.</p> <p>(3) Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.</p>

	may be subjected to GST	
6	Appropriate clarification may be issued regarding taxability of Cost Petroleum.	<p>As per the Production Sharing Contract(PSC) between the Government and the oil exploration & production contractors, in case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called “Cost Petroleum”.</p> <p>The relationship of the oil exploration and production contractors with the Government is not that of partners but that of licensor/lessor and licensee/lessee in terms of the Petroleum and Natural Gas Rules, 1959. Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of petroleum for themselves and not as a service to the Government. Para 8.1 of the Model Production Sharing Contract (MPSC) states that subject to the provisions of the PSC, the Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract. The oil exploration and production contractors conduct all petroleum operations at their sole risk, cost and expense. Hence, cost petroleum is not a consideration for service to GOI and thus not taxable per se. However, cost petroleum may be an indication of the value of mining or exploration services provided by operating member to the joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.</p>

**Circular No. 34/2018, dated 1st March, 2018:
Clarification regarding GST in respect of certain services**

Clarifications regarding GST in respect of certain services:

S. No.	Issue	Clarification
1.	Whether activity of bus body building, is a supply of goods or services?	In the case of bus body building there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.
2.	Whether retreading of tyres is a supply of goods or services?	<p>In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply, must be determined keeping in view the nature of the supply involved. Value may be one of the guiding factors in this determination, but not the sole factor. The primary question that should be asked is what is the essential nature of the composite supply and which element of the supply imparts that essential nature to the composite supply.</p> <p>Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods (retreaded tyres under heading 4012 of the Customs Tariff attracting GST @ 28%)</p>
3.	Whether Priority Sector Lending Certificates (PSLCs) are outside the purview of GST and therefore not taxable?	<p>In Reserve Bank of India FAQ on PSLC, it has been mentioned that PSLC may be construed to be in the nature of goods, dealing in which has been notified as a permissible activity under section 6(1) of the Banking Regulation Act, 1949 vide Government of India notification dated 4th February, 2016. PSLC are not securities. PSLC are akin to freely tradeable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which attracted VAT.</p> <p>In GST there is no exemption to trading in PSLCs. Thus, PSLCs are taxable as goods at standard rate of 18% under the residuary S. No. 453 of Schedule III of notification No. 1/2017-Central Tax(Rate). GST payable on the certificates would be available as ITC to the bank buying the certificates.</p>

4.	<p>(1) Whether the activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act are exempt from GST?</p> <p>(2) Whether the guarantee provided by State Government to state owned companies against guarantee commission, is taxable under GST?</p>	<p>(1) Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under notification No. 12/2017- CT (R), Sl. No. 25. The other services such as, -</p> <ul style="list-style-type: none"> i. Application fee for releasing connection of electricity; ii. Rental Charges against metering equipment; iii. Testing fee for meters/transformers, capacitors etc.; iv. Labour charges from customers for shifting of meters or shifting of service lines; v. Charges for duplicate bill; <p>provided by DISCOMS to consumer are taxable.</p> <p>(2) The service provided by Central Government/State Government to any business entity including PSUs by way of guaranteeing the loans taken by them from financial institutions against consideration in any form including Guarantee Commission is taxable.</p>
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**Circular No. 44/2018, dated 2nd May, 2018:
Issue related to taxability of 'tenancy rights' under GST- Regarding.**

1. Doubts have been raised as to,-
 - (i) Whether transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium, shall attract GST when stamp duty and registration charges is levied on the said premium, if yes what would be the applicable rate?
 - (ii) Further, in case of transfer of tenancy rights, a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST?
2. The issue has been examined. The transfer of tenancy rights against tenancy premium which is also known as "pagadi system" is prevalent in some States. In this system the tenant acquires, tenancy rights in the property against payment of tenancy premium(pagadi). The landlord may be owner of the property but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceed with owner of land, as laid down in their tenancy agreement. Alternatively, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999.
3. As per section 9(1) of the CGST Act there shall be levied central tax on the intra-State supplies of services. The scope of supply includes all forms of supply of goods and services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a

consideration by a person in the course or furtherance of business and also includes the activities specified in Schedule II. The activity of transfer of tenancy right against consideration in the form of tenancy premium is a supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in para 2 of Schedule II i.e. any lease, tenancy, easement, licence to occupy land is a supply of services

4. The contention that stamp duty and registration charges is levied on such transfers of tenancy rights, and such transaction thus should not be subjected to GST, is not relevant. Merely because a transaction or a supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the scope of supply of goods and services and from payment of GST. The transfer of tenancy rights cannot be treated as sale of land or building declared as neither a supply of goods nor of services in para 5 of Schedule III to CGST Act, 2017. Thus a consideration for the said activity shall attract levy of GST.
5. To sum up, the activity of transfer of 'tenancy rights' is squarely covered under the scope of supply and taxable per-se. Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. However, renting of residential dwelling for use as a residence is exempt [Sl. No. 12 of notification No. 12/2017-Central Tax(Rate)]. Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

Order No. 1/2018, dated 28th March, 2018:

Extension of date for submitting the statement in FORM GST TRAN-2

In exercise of the powers conferred by sub-clause (iii) of clause (b) of sub-rule (4) of rule 117 of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, the Commissioner, on the recommendations of the Council, hereby extends the period for furnishing the statement in FORM GST TRAN-2 under sub-clause (iii) of clause (b) of sub-rule (4) of rule 117 of the Central Goods and Services Tax Rules, 2017 till the 30th day of June, 2018.

Order No. 2/2018, dated 31st March, 2018:

Incidence of GST on providing catering services in train

Different GST rates are being applied for mobile and static catering in Indian Railways which is presently leading to a situation whereby the same licensee (selected by Indian Railways/IRCTC) supplying the same food would be subjected to different GST rates depending on whether it is mobile or static catering, as also which variant of mobile catering it is [pre-paid (without option), pre-paid (with option) or post-paid]. The rate difference is resulting in the same food being supplied at two different rates to the railway passengers, which is anomalous.

The passenger is not aware as to the GST rate applicable to the food ordered by him/her. This may also lead to unnecessary litigation and thus further strengthens the need for uniform application of tax rate in respect of food and drinks in/by Railways.

With a view to remove any doubt or uncertainty in the matter and bring uniformity in the rate of GST applicable for all kinds of supply of food and drinks made available in trains, platforms or stations, it is clarified with the approval of GST Implementation Committee, that the GST rate on supply of food and/or drinks by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms (static units), will be 5% without ITC.

INTEGRATED GOODS & SERVICES TAX ACT, 2017 AND IGST RULES, 2017

NOTIFICATIONS/CIRCULARS

Notification No. 4/2018 – Integrated Tax (Rate), dated 25th January, 2018:

Special procedure with respect to payment of tax by registered person supplying service by way of construction against transfer of development right and vice versa

Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely:-

(a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and

(b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights,

as the registered persons in whose case the liability to pay integrated tax on supply of the said services, on the consideration received in the form of construction service referred to in clause (a) above and in the form of development rights referred to in clause (b) above, shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

Notification No. 5/2018 – Integrated Tax (Rate), dated 25th January, 2018:

To exempt Central Government's share of Profit Petroleum from Integrated tax

Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the inter-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, from so much of the integrated tax as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.

Notification No. 6/2018 – Integrated Tax (Rate), dated 25th January, 2018:

To exempt royalty and license fee from Integrated tax to the extent it is paid on the consideration attributable to royalty and license fee included in transaction value under Rule 10(1)(c) of Customs Valuation (Determination of value of imported Goods) Rules, 2007

In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), hereinafter referred to as the said Act, the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the integrated tax leviable under section 5 read with section 7 of the said Act on the supply of services, imported into the territory of India, covered by sub-item (c) of item 5 of Schedule II to the Central Goods and Services Tax Act, 2017 (12 of 2017) as made applicable by

section 20 of the said Act, to the extent of the aggregate of the duties of Customs leviable under sub-section (7) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), on the consideration declared under sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962) towards royalties and license fees included in the transaction value as specified under clause (c) of sub-rule(1) of rule 10 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 on which the appropriate duties of Customs have been paid.

**Notification No. 11/2018: Integrated Tax (Rate), dated 23rd March, 2018:
To exempt payment of tax under section 5(4) of the IGST Act, 2017 till 30.06.2018.**

The Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, defers the applicability of provisions of reverse charge mechanism as contained in section 5(4) of IGST Act, 2017 (RCM from unregistered persons) till 30th June 2018.

**Circular No. 3/1/2018, dated 25th May, 2018:
Applicability of Integrated Goods and Services Tax (integrated tax) on goods supplied while being deposited in a customs bonded warehouse**

Attention is invited to Circular No. 46/2017-Customs dated 24.11.2017 whereby the applicability of integrated tax on goods transferred/sold while being deposited in a warehouse (hereinafter referred to as the “warehoused goods”) was clarified.

It is seen that the “transfer/sale of goods while being deposited in a customs bonded warehouse” is a common trade practice whereby the importer files an into-bond bill of entry and stores the goods in a customs bonded warehouse and thereafter, supplies such goods to another person who then files an ex-bond bill of entry for clearing the said goods from the customs bonded warehouse for home consumption.

It may be noted that as per sub-section (2) of section 7 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”), the supply of goods imported into the territory of India, till they cross the customs frontiers of India, is treated as a supply of goods in the course of inter-State trade or commerce. Further, the proviso to subsection (1) of section 5 of the IGST Act provides that the integrated tax on goods imported into India would be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the “CTA”). Thus, in case of supply of the warehoused goods, the point of levy would be the point at which the duty is collected under section 12 of the Customs Act, 1962 (hereinafter referred to as the “Customs Act”) which is at the time of clearance of such goods under section 68 of the Customs Act.

It may also be noted that sub-section (8A) has been inserted in section 3 of the CTA vide section 102 of the Finance Act, 2018, with effect from 31st March, 2018, so as to provide that the valuation for the purpose of levy of integrated tax on warehoused imported goods at the time of clearance for home consumption would be either the transaction value or the value as per sub-section (8) of section 3 of the CTA (i.e. valuation done at the time of filing the into-bond bill of entry), whichever is higher.

It is therefore, clarified that integrated tax shall be levied and collected at the time of final clearance of the warehoused goods for home consumption i.e., at the time of filing the ex-bond bill of entry and the value addition accruing at each stage of supply shall form part of the value on which the integrated tax would be payable at the time of clearance of the warehoused goods for home consumption. In other words, the supply of goods before their clearance from the warehouse would not be subject to the levy of integrated tax and the same would be levied and collected only when the warehoused goods are cleared for home consumption from the customs bonded warehouse.

This Circular would be applicable for supply of warehoused goods, while being deposited in a customs bonded warehouse, on or after the 1st of April, 2018.

UNION TERRITORY GOODS & SERVICES TAX ACT, 2017 (UTGST)

NOTIFICATIONS/CIRCULARS

**Notification No. 1/2018: Union Territory Tax, dated 1st January, 2018:
Effective rate of tax under composition scheme for manufacturers and other suppliers**

In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 10 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) read with section 21 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.2/2017- Union Territory Tax, dated the 27th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R. 648 (E), dated the 27th June, 2017, namely:-

In the said notification, in the opening paragraph, -

- (a) in clause (i), for the words “one per cent.”, the words “half per cent.” shall be substituted;
- (b) in clause (iii), for the words “half per cent of the turnover”, the words “half per cent. of the turnover of taxable supplies of goods” shall be substituted.

**Notification No. 4/2018: Union Territory Tax (Rate), dated 25th January, 2018:
Special procedure with respect to payment of tax by registered person supplying service by way of construction against transfer of development right and vice versa**

Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely:-

(a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and

(b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights,

as the registered persons in whose case the liability to pay Union territory tax on supply of the said services, on the consideration received in the form of construction service referred to in clause (a) above and in the form of development rights referred to in clause (b) above, shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

**Notification No. 5/2018 – Union Territory Tax (Rate), dated 25th January, 2018:
To exempt Central Government’s share of Profit Petroleum from Union Territory tax**

Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the inter-State supply of services by way of grant

of license or lease to explore or mine petroleum crude or natural gas or both, from so much of the Union territory tax as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.

**Notification No. 10/2018: Union Territory Tax (Rate), dated 23rd March, 2018:
To exempt payment of tax under section 7(4) of the UTGST Act, 2017 till 30.06.2018.**

The Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, defers the applicability of provisions of reverse charge mechanism as contained in section 7(4) of UTGST Act, 2017 (RCM from unregistered persons) till 30th June 2018.

CUSTOMS LAWS

Circular No. 49/2017 – dated 12th December, 2017
Refund/Claim of Countervailing duty as Duty Drawback

With respect to Countervailing Duties which are leviable under section 9 of the Customs Tariff Act, the Board clarifies that these are rebatable as Drawback in terms of Section 75 of the Customs Act. Since Countervailing Duties are not taken into consideration while fixing All Industry Rates of Duty Drawback, the Drawback of such Countervailing Duties can be claimed under an application for Brand Rate under Rule 6 or Rule 7 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 and/or the Customs and Central Excise Duties Drawback Rules, 2017, as the case may be. This would necessarily mean that drawback shall be admissible only where the inputs that suffered Countervailing Duties were actually used in the goods exported as confirmed by the verification conducted for fixation of Brand Rate.

Where imported goods subject to Countervailing Duties are exported out of the country as such, then the Drawback payable under Section 74 of the Customs Act, 1962 would also include the incidence of Countervailing Duties as part of total duties paid, subject to fulfilment of other conditions.

Notification No. 7/2018 – dated 2nd February, 2018
Exempt levy of the whole of the Education Cess on all goods in the First schedule to the Customs Tariff Act, 1975

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), read with section 94 of the Finance (No. 2) Act, 2004 (23 of 2004), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts all goods specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) when imported into India, from whole of Education Cess leviable thereon under section 94 of the said Finance Act.

Notification No. 8/2018 – dated 2nd February, 2018
Exempt levy of the whole of the Secondary & Higher Education Cess on all goods in the First schedule to the Customs Tariff Act, 1975

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) read with section 139 of the Finance Act, 2007 (22 of 2007), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts all goods specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) when imported into India, from whole of Secondary and Higher Education Cess leviable thereon under section 139 of the said Finance Act.

Notification No. 12/2018 – dated 2nd February, 2018
To exempt specified goods from the levy of Social Welfare Surcharge in excess of 3%

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) read with clause 108 of the Finance Bill, 2018 (4 of 2018), which, by virtue of the declaration

made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931), has the force of law, the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts goods of the description specified in column (3) of the Table below and falling within the Chapter, heading or sub-heading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as specified in column (2) of the said Table, from so much of the Social Welfare Surcharge leviable thereon under the said clause of the Finance Bill, as is in excess of the amount calculated at the rate specified in column (4) of the said Table.

S.No.	Chapter or heading or subheading or tariff item of the First Schedule	Description of goods	Rate
(1)	(2)	(3)	(4)
1.	2710	Motor spirit commonly known as petrol	3%
2.	2710 19 30	High speed diesel (HSD)	3%
3.	7106	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form	3%
4.	7108	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	3%

Notification No. 13/2018 – dated 2nd February, 2018

To exempt Integrated tax and Goods and Services Tax compensation cess on imported goods from the whole of levy of Social Welfare Surcharge

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) read with clause 108 of the Finance Bill, 2018 (4 of 2018), which, by virtue of the declaration made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931), has the force of law, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the goods specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), when imported into India, from the whole of the Social Welfare Surcharge leviable on Integrated tax under sub-section (7), and Goods and Services Tax compensation cess under sub-section (9), of section 3 of the said Customs Tariff Act read with the said clause 108 of the Finance Bill.