

From

Excise & Taxation Commissioner,
Haryana, Panchkula.

To

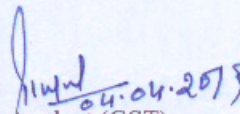
All the Dy. Excise & Taxation Commissioner (ST),
in the State of Haryana.

Memo No. 841 /GST-2
Panchkula, date the 04.04.19

Subject: Clarifications of certain issues under GST – reg.
MEMORANDUM

Please find enclosed herewith a copy of circular on the captioned subject.

It is requested to bring this to the knowledge of all the officers working under your control for their information and necessary action.

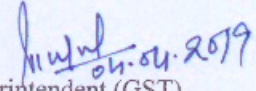

Superintendent (GST)

for Excise and Taxation Commissioner,
Haryana

Endst. No. 842 /GST-2, Panchkula, dated the 04.04.19

A copy of the Circular is forwarded to the following for information and necessary action:-

1. All the Jt. Excise & Taxation Commissioner (Division/Range) in the State of Haryana.
2. All the Jt. Excise & Taxation Commissioner (Appeals) in the State of Haryana.
3. PS/ ACSET.
4. PS/ETC.

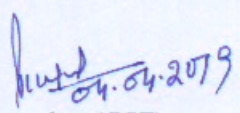

Superintendent (GST)

for Excise and Taxation Commissioner,
Haryana

Endst. No. 843/GST-2, Panchkula, dated the 04.04.19

A copy of the Circular is forwarded to the following in the Head Office for information and necessary action:-

1. All the Addl. Excise & Taxation Commissioners.
2. All the Jt. Excise & Taxation Commissioners.
3. The Jt. Director (L) –I and II.
4. The Dy. Excise & Taxation Commissioners.
5. DA-I & II.
6. DDA-I & II.


Superintendent (GST)

for Excise and Taxation Commissioner,
Haryana

**HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT**

Subject: Clarifications of certain issues under GST- regarding.

The circular seeks to clarify the issue regarding certain issues under the GST laws. The circular on the above mentioned subject has already been issued by the Centre on 14.06.2018 bearing no.48/22/2018-GST. The same have been examined and the clarifications on the same are as below:

Sr. No.	Issue	Clarification
1.	Whether services of short-term accommodation, conferencing, banqueting etc. provided to a Special Economic Zone (SEZ) developer or a SEZ unit should be treated as an inter State supply (under section 7(5)(b) of the IGST Act, 2017) or an intra-State supply (under section 12(3)(c) of the IGST Act, 2017)?	<p>1.1 As per section 7(5) (b) of the Integrated Goods and Services Tax Act, 2017 (IGST Act in short), the supply of goods or services or both to a SEZ developer or a SEZ unit shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce. Whereas, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ Union territory, it would be treated as an intra-State supply.</p> <p>1.2 It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision.</p> <p>1.3 In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies of goods or services or both made to a SEZ developer or a SEZ unit, which states that such supplies shall be treated as inter-State supplies.</p> <p>1.4 It is therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply.</p>
2.	Whether the benefit of zero rated supply can be allowed to all procurements by a SEZ developer or a SEZ unit such as event	2.1 As per section 16(1) of the IGST Act, "zero rated supplies" means supplies of goods or services or both to a SEZ developer or a SEZ unit. Whereas, section

	management services, hotel and accommodation services, consumables etc?	<p>16(3) of the IGST Act provides for refund to a registered person making zero rated supplies under bond/LUT or on payment of integrated tax, subject to such conditions, safeguards and procedure as may be prescribed. Further, as per the second proviso to rule 89(1) of the Haryana Goods and Services Tax Rules, 2017 (HGST Rules in short), in respect of supplies to a SEZ developer or a SEZ unit, the application for refund shall be filed by the:</p> <ul style="list-style-type: none"> (a) supplier of goods after such goods have been admitted in full in the SEZ for authorised operations, as endorsed by the specified officer of the Zone; (b) supplier of services along with such evidences regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone. <p>2.2 A conjoint reading of the above legal provisions reveals that the supplies to a SEZ developer or a SEZ unit shall be zero rated and the supplier shall be eligible for refund of unutilized input tax credit or integrated tax paid, as the case may be, only if such supplies have been received by the SEZ developer or SEZ unit for authorized operations. An endorsement to this effect shall have to be issued by the specified officer of the Zone.</p> <p>2.3 Therefore, subject to the provisions of section 17(5) of the HGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier.</p>
3.	Whether independent fabric processors (job workers) in the textile sector supplying job work services are eligible for refund of unutilized input tax credit on account of inverted duty structure under section 54(3) of the HGST	<p>3.1 Notification No. 39/ST-2, dated 30.06.2017 specifies the goods in respect of which refund of unutilized input tax credit (ITC) on account of inverted duty structure under section 54(3) of the CGST Act shall not be allowed where the credit has accumulated on account of rate</p>

	<p>Act, 2017, even if the goods (fabrics) supplied are covered under notification No. 39/ST-2, dated 30.06.2017? This notification has been amended vide notification no.70/GST-2, dated 27.07.2018.</p>	<p>of tax on inputs being higher than the rate of tax on output supplies of such goods. However, in case of fabric processors, the output supply is the supply of job work services and not of goods (fabrics).</p> <p>3.2 Hence, it is clarified that the fabric processors shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the HGST Act even if the goods (fabrics) supplied to them are covered under notification No. 39/ST-2, dated 30.06.2017.</p>
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2. Difficulties faced, if any, in implementation of the above instructions may please be brought to the notice of the Department.

Dated: 30.03.2019
Panchkula

Amit Kumar Agrawal
Excise & Taxation Commissioner-cum-
Commissioner of State Tax, Haryana