

From

Excise & Taxation Commissioner,
Haryana, Panchkula.

To

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

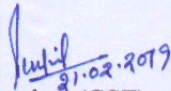
Memo No. 483 /GST-2
Panchkula, date the 21/02/19

Subject: Denial of composition option by tax authorities and effective date thereof - Reg.

MEMORANDUM

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

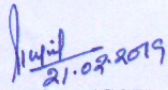
It is requested to bring this to the knowledge of all the officers working under your control for their information and necessary action.


Superintendent (GST)
for Excise and Taxation Commissioner,
Haryana

Endst. No. 484 /GST-2, Panchkula, dated the 21/02/19

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

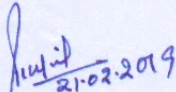
1. All the Jt. Excise & Taxation Commissioner (Division/Range) in the State of Haryana.
2. All the Jt. Excise & Taxation Commissioner (Appeals) in the State of Haryana.
3. PS/ ACSET.
4. PA/ETC.


Superintendent (GST)
for Excise and Taxation Commissioner,
Haryana

Endst. No. 485/GST-2, Panchkula, dated the 21/02/19

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: Denial of composition option by tax authorities and effective date thereof-Reg.

Rule 6 of the Haryana Goods and Services Tax Rules, 2017 (hereinafter referred to as the "HGST Rules") deals with the validity of the composition levy. As per the said rule, the option exercised by a registered person to pay tax under the composition scheme shall remain valid so long as he satisfies the conditions mentioned in section 10 of the Haryana Goods and Services Tax Act, 2017 (hereinafter referred to as the "HGST Act") and the HGST Rules. The rule lays down the procedure for withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme and also the procedure for denial of option to the taxpayer to pay tax under the said scheme where he has contravened the provisions of the HGST Act or the HGST Rules.

2. In this connection, doubts have been raised as to the date from which withdrawal from the composition scheme shall take effect in a case where the composition taxpayer has exercised such option to withdraw. Doubts have also been raised regarding the effective date of denial of the option to pay tax under the composition scheme where action has been initiated by the tax authorities to deny such option to the composition taxpayer. Further, clarification has been sought regarding the follow up action to be taken by the tax authorities when the composition option is denied to the taxpayer retrospectively. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of the law across field formations, the Commissioner of State Tax, in exercise of its powers conferred by section 168 of the HGST Act, hereby clarifies the issues raised as below.

3. Sub-rule (2) of rule 6 of the HGST Rules provides that the composition taxpayer shall pay tax under sub-section (1) of section 9 of the HGST Act as a normal taxpayer from the day he ceases to satisfy any of the conditions of the composition scheme and shall issue tax invoice for every taxable supply made thereafter. Sub-rule (3) of rule 6 of the HGST Rules provides that the registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in **FORM GST CMP-04** on the common portal. He shall file intimation for withdrawal from the scheme in **FORM GST CMP-04** within seven days of the occurrence of such event.

4. As per sub-rule (4) of rule 6 of the HGST Rules, where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 of the HGST Act or has contravened the provisions of the HGST Act or the HGST Rules, he may issue a notice to such person in **FORM GST CMP-05** to show cause as to why the

option to pay tax under section 10 of the HGST Act shall not be denied. Upon receipt of the reply to the show cause notice from the registered person in **FORM GST CMP-06**, the proper officer shall, in accordance with the provisions of sub-rule (5) of rule 6 of the HGST Rules, issue an order in **FORM GST CMP-07** within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 of the HGST Act from the date of the option or from the date of the event concerning such contravention, as the case may be.

5. It is clarified that in a case where the taxpayer has sought withdrawal from the composition scheme, the effective date shall be the date indicated by him in his intimation/application filed in **FORM GST CMP-04** but such date may not be prior to the commencement of the financial year in which such intimation/application for withdrawal is being filed. If at any stage it is found that he has contravened any of the provisions of the HGST Act or the HGST Rules, action may be initiated for recovery of tax, interest and penalty. In case of denial of option by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date as may be determined by tax authorities, but shall not be prior to the date of contravention of the provisions of the HGST Act or the HGST Rules. In such cases, as provided under sub-section (5) of section 10 of the HGST Act, the proceedings would have to be initiated under the provisions of section 73 or section 74 of the HGST Act for determination of tax, interest and penalty for the period starting from the date of contravention of provisions till the date of issue of order in **FORM GST CMP-07**. It is also clarified that the registered person shall be liable to pay tax under section 9 of the HGST Act from the date of issue of the order in **FORM GST CMP-07**.

Provisions of section 18(1)(c) of the HGST Act shall apply for claiming credit on inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the date immediately preceding the date of issue of the order.

6. Difficulties faced, if any, in implementation of the above instructions may please be brought to the notice of the Department.

Dated: 02.02.2019
Panchkula

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