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CGA LEGAL

THE GST BULLETIN

YOUR INDIRECT TAX KNOWLEDGE PARTNER



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About The GST Bulletin

The GST Bulletin is a Weekly Newsletter from Team CGA Legal, a leading Indirect Tax Consultancy firm. The Newsletter is intending to keep its readers updated with all important legal and judicial updates in Goods & Services Tax and other Indirect Tax laws. The Newsletter also has a special column of GST Compliance Calendar for the month. Along with it, CGA Legal also sends various legal recommendations which have immense implications in improving the compliance of GST in your business.

All editions of our newsletters can be referred from below link below;
<https://www.cgalegal.co.in/home/newsletters.php>

Other Offerings from Team CGA Legal

- **CGA Legal GST Compliance Calendar:** Our Monthly Calendar detailing all GST related compliances for the month so that you never miss of any of the compliances.
- **CGA Legal Meet:** Our Monthly Webinar series discussing various trending GST legal and compliance issues

All the previous editions can be accessed on our website
www.cgalegal.co.in

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GST Return - Compliance Calendar

Statutory Date	Types of Return/Form	Period	Types of Taxpayer
10-09-2022	GSTR-7	August 2022	TDS Deductor
10-09-2022	GSTR-8	August 2022	E-Commerce Operator
11-09-2022	GSTR-1	August 2022	Turnover more than INR 5 crore in the preceding FY or Turnover up to INR 5 crores and opted for monthly return filing
13-09-2022	Details of Outward Supplies through Invoice Furnishing Facility [IFF]	August 2022	Taxpayers who are under QRMP Scheme
13-09-2022	GSTR-6	August 2022	ISD
20-09-2022	GSTR-3B	August 2022	Turnover more than INR 5 crore in the preceding FY or Turnover upto INR 5 crore in the preceding FY but opted for monthly return filing
20-09-2022	GSTR-5	August 2022	Non Resident Taxable Person
20-09-2022	GSTR-5A	August 2022	OIDAR
25-09-2022	GST PMT-06	August 2022	Taxpayer who has opted for QRMP Scheme has to deposit tax using form GST PMT-06 by the 25th of the following month, for the first and second months of the quarter.

GST News

GST on Cancellation of Confirmed Train Tickets

The cancellation of confirmed train tickets will now attract goods and services tax (GST) even as the finance ministry has also issued a notification regarding that. According to a notification issued by the finance ministry's tax research unit, the cancellation charge for a first-class or AC coach ticket will now attract 5 per cent GST, which is the rate levied on the ticket.

According to the notification issued on August 3, the booking of tickets is a 'contract', under which the service provider (IRCTC/Indian Railways) promises to provide services to the customer. "When the contract is breached by the passenger, the service provider is compensated with a small amount, collected as a cancellation charge. Since the cancellation charge is a payment, and not breach of contract, it will attract GST," the notification said.

Read more at:

<https://www.news18.com/news/business/gst-on-cancellation-of-confirmed-train-tickets-heres-all-you-need-to-know-5850667.html>

GST – Judicial Precedents

1. E-WAY Bill

Imposition of penalty under section 129(3) on the ground that in the invoice accompanying the goods, the tax paid was shown to be under CGST & SGST, whereas it should have been shown as tax paid towards IGST

M/s S.P. Traders Vs ASTO Surveillance, Squad [High Court Of Kerala At Ernakulam]

The petitioner was transporting goods from Tiruppur to Kerala. In the invoice accompanying the goods, the tax paid was shown to be under CGST & SGST, whereas it should have been shown as tax paid towards IGST. However, in the E-way bill accompanying the goods the tax paid was correctly shown as paid towards IGST and tax payable as IGST is paid as CGST/SGST, there is loss of revenue as far as the State is concerned.

Held that in the E-way bill accompanying the goods, the tax paid was correctly shown as IGST. Further, the mistake has been corrected while issuing credit note/debit note and in the monthly return, the amount paid has been correctly shown as IGST - respondent to verify monthly returns filed by the petitioner and determine whether the amount in question was correctly shown as IGST instead of CGST/SGST - If the officer finds that the amount has been correctly shown as IGST in the monthly returns, notwithstanding the issuance the impugned order, the officer shall consider whether the mistake committed by the petitioner can be penalized by imposing a minor penalty – matter remanded for verification by respondents.

GST – Judicial Precedents

2. Classification

Applicable rate of GST on Works Contract services provided to Government Authority, Government entity, Endowments (Devasthanams) and PSUs

M/s Srico Projects Private Limited [Telangana State Authority for Advance Ruling]

M/s. Srico Projects Private Limited are executing works for State & Central Governmental authorities & Governmental entities. They are desirous of ascertaining the rate of tax on the works contract services rendered by them before 01.01.2022 & after 01.01.2022. Hence this application.

Held that the applicant is rendering works contract services to various institutions which includes Government entities i.e., local bodies, few are Government authorities, Endowments (Devasthanams) and PSUs. The work executed for local bodies, the Central Government & the State Government is taxable at 12% GST prior to and after 01.01.2022. The work executed for Government Entity who in turn are engaged in executing works entrusted to it by the Central Government & State Government or local authority is taxable @12% GST upto 31.12.2021 & at the rate of 18% GST from 01.01.2022 onwards as Entry at Sl.No.3(xii) of Notification No.11/2017. The work executed for Devasthanams/Temple Board taxable @18% GST both prior to and after 01.01.2022. The works executed for PSUs & autonomous bodies are taxable @ 18% GST both prior to and after 01.01.2022.

GST – Judicial Precedents

3. Classification

Classification and tax rate applicable to the works contract - Kochi Water Metro Project

M/s KOOL HOME BUILDERS [Kerala Authority for Advance Ruling]

Applicant is awarded works contract by Kochi Metro Rail Limited [KMRL] for the Construction of Terminals for Phase 1 Stage 2 for the Kochi Water Metro Project. The applicants wants ruling that what will be the classification and tax rate applicable to the works contract awarded to the applicant by KMRL. Whether the Kochi Water Metro Project comes under the term 'business' as per the explanation to heading 9954 item no. (vi) of Notification No.11/2017 Central Tax (Rate) dated 28th June 2017.

Held that though the contract of construction of the terminals and other infrastructural facilities for the integrated water transport project is awarded to the applicant by Kochi Metro Rail Ltd as the executing and operating agency the contract is awarded on behalf of the Government of Kerala and the transfer of property in goods in the work contract services rendered by the applicant takes place to the Government of Kerala; the de jure owner of the assets of the integrated water transport project, and hence the recipient of the work contract services rendered by the applicant is the Government of Kerala. applicant activity is squarely covered by the explanation to entry at Sl. No. 3 (vi) of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 and the activity is not a 'business' for the purpose of the above-said entry. The works contract services performed by the applicant as per the works contracts awarded by Kochi Metro Rail Ltd is exigible to 12% GST as per entry at Sl.No.3 (vi) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended.

GST – Judicial Precedents

4. Input Tax Credit

Whether input tax credit is admissible on GST charged by service provider on hiring of bus/motor vehicle having approved seating capacity of more than 13 persons for transportation of employees to and from the workplace?

M/s. Malabar Cements Limited [Kerala Authority for Advance Ruling]

The applicant submits that their factory operates 24 hours a day, on four shifts.

Furthermore, the factory and mines are located in remote area where public

conveyances are not available at all time. Since some of the factory shifts are in odd hours and since the factory is not easily accessible, the applicant has to provide transportation facilities to its employees in non-air-conditioned bus having approved seating capacity of more than 13 passengers for commuting to and from workplace. The service providers collect 5% GST on the vehicle hiring charges. In order to ensure that the transportation facility is used by only authorized persons/employees, the applicant issues pass to employees and a nominal recovery is made from them every month. The difference between the hire/rental charges paid to service providers and the nominal recovery made from the employees is part of the cost to the applicant.

Held that there is no restriction in availing input tax credit of the tax paid on motor vehicles or hiring or renting of motor vehicles having approved seating capacity of more than thirteen persons. The applicant is eligible for availing input tax credit of the tax paid for hiring of bus/motor vehicle having approved seating capacity of more than 13 persons for transportation of their employees to and from the workplace. Further, regarding the extent to which the input tax credit can be availed by them as they are recovering a part of the cost incurred for transportation from the employees. The applicant cannot avail of the input tax credit of tax paid corresponding / attributable to the cost of transportation recovered from the employees. Therefore, the eligibility of the applicant to avail input tax credit will be restricted to the extent of the cost of transportation borne by the applicant.

GST – Judicial Precedents

5. Exemption

Whether the health-care services provided to patients at their residence by the applicant through qualified nurses and other technically qualified persons are taxable in GST?

M/s Arden Health Care Private Limited [Kerala Authority for Advance Ruling]

Held that the services rendered by the applicant for the care of patients at their residence by employing qualified nurses and other technical personnel fall within the definition of healthcare services. The applicant is providing services of care for illness to patients at their residence and hence qualify to be classified as a clinical establishment under the category of any other institution providing services of care for illness as per the definition of clinical establishment. The applicant is a clinical establishment providing health care services that are exempted as per entry at Sl.No. 74 of Notification No.12/2017-Central Tax (Rate).



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