

GOODS & SERVICES TAX / CUSTOMS UPDATE 29

CENTRAL GOODS & SERVICES TAX

Refund of Unutilized input tax credit of GST paid on inputs in respect of fabrics manufactured and exported

The Central Board of Excise & Customs vide [Circular No. 18/18/2017-CGST dated 16th November, 2017](#) clarified that restriction of refund imposed on unutilized input tax credit of GST paid on inputs via [Notification No. 5/2017- Central Tax dated 28/06/2017](#) in respect of certain specified goods will not be applicable to zero rated supplies.

Accordingly, refund of ITC though restricted for other categories of manufacturers, not applicable for zero rated supplies.

Comments: Goods which are not eligible for refund under 5/2017 will not be affected by this embargo if they are exported or supplied to SEZ and will enjoy refund of unutilized credit. This circular effectively declares that refund on account of inverted tax structure all though restricted by Council recommendation does not apply if the inversion arises on account of the very same goods being involved in zero-rated supplies.

[[Circular No. 18/18/2017-CGST dated 16th November, 2017](#)]

Clarification on taxability of custom milling of paddy

[Notification no.12/2017- Central Tax \(Rate\) dated 28th June, 2017](#) exempts carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fiber, fuel, raw material or other similar products or agricultural produce

In pursuance of above notification, The Central Board of Excise & Customs vide [Circular No. 19/19/2017-CGST dated 20th November, 2017](#) clarified that milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice is not eligible for exemption under S.no. 55 of Notification 12/2017-Central Tax (Rate) dated 28/06/2017.

It is also clarified that milling of paddy into rice on job work basis, is liable to GST at the rate of 5% on the processing charges (and not on the entire value of rice).

Comments: This creates an anomalous situation for mills that 'buy paddy and sell rice' which will be exempt but mills that undertake 'milling services' will bear the tax burden. The difference between the two is a matter of contract and accounting.

[[Circular No. 19/19/2017-CGST dated 20th November, 2017](#)]

Clarification on GST rate on terracotta idols

The Central Board of Excise & Customs vide [Circular No. 20/20/2017-CGST dated 22nd November, 2017](#) clarified that terracotta is clay based, terracotta idols will be eligible for Nil rate under Sl. No.135A of notification 2/2017 dated 28.06.2017.

[\[Circular No. 20/20/2017-CGST dated 22nd November, 2017\]](#)

Clarification on inter-state movement of rigs/spares & all goods on wheels

[Circular No. 1/1/2017-IGST dated 7th July,2017](#) clarified that inter-state movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, 2017, carrying goods or passengers or both; or for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] shall be treated “neither as a supply of goods nor supply of service” and therefore would not be leviable to IGST.

Further, The Central Board of Excise & Customs vide [Circular No. 21/21/2017-CGST dated 22nd November, 2017](#) clarified that circular 1/1/2017 -IGST shall mutatis mutandis apply to inter-state movement of such goods , and except in cases where movement of such goods is for further supply of the same goods, such inter-state movement shall be treated ‘neither as supply of goods or supply of service, ‘and consequently no IGST would be applicable on such movements.

It is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.

[\[Circular No. 21/21/2017-CGST dated 22nd November, 2017\]](#)

CUSTOMS

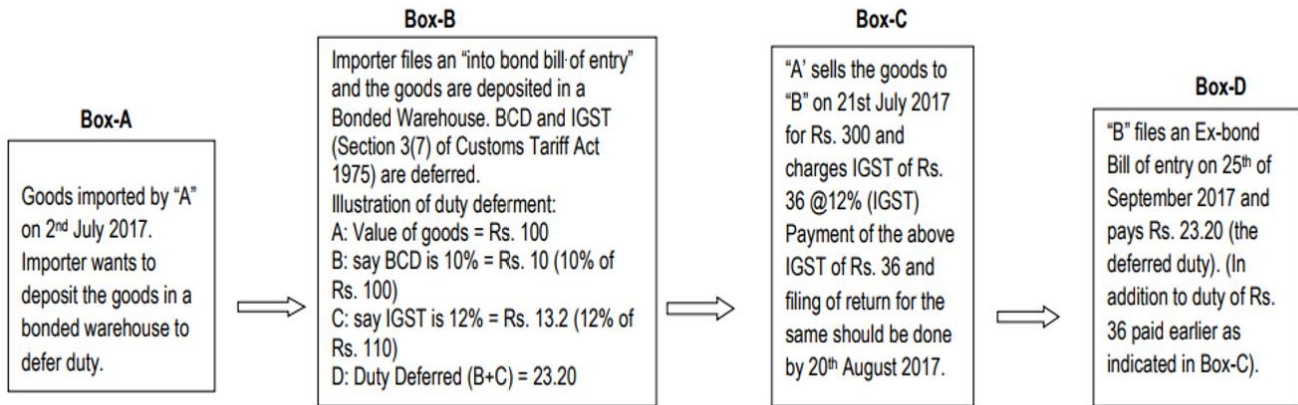
Clarification on applicability of GST on goods sold while being in a custom bonded warehouse

The Central Board of Excise & Customs vide [Circular No. 46/2017-Customs dated 24th November, 2017](#) clarified that goods imported and deposited in a custom bonded warehouse will be chargeable to (Custom duty + IGST) at the time of filing of ex-bond bill of entry at the value determined at the time of filing into-bond bill of entry to be collected at ex-bond stage. However, If the importer sells the customs bonded goods to another person before clearance of goods from warehouse, IGST will be leviable on such transaction at the time of sale which the importer will have to pay by 20th of next month.

Therefore, IGST leviable on import shall remain deferred so long as such goods remain in custom bonded warehouse. However, IGST on sale /transfer of warehoused goods need to be paid on or before 20th of succeeding month.

Sale of goods in a Bonded Warehouse and clearance thereof:

ILLUSTRATION



Comments: This is a very interesting circular to the extent it interprets the levy of GST under section 9 of CGST Act when all imports are leviable to IGST under section 3(7) of Customs Tariff Act. In fact proviso to section 5(1) of IGST Act declares that 'goods imported into India' will attract tax 'at the point' when customs duties are levied. Goods lying in-bond do not 'yet' attract customs duties because the 'date for the rate of duty' is determined by section 15 of Customs Act as the date of ex-bond bill of entry for clearing goods from warehouse under section 68 of Customs Act. The eventual result – IGST payable on ex-bond value at the time of clearance from warehouse – is not different all though the approach seems to be different.

[\[Circular No. 46/2017-Customs dated 24th November, 2017\]](#)

Rs. 83,346 crores collected under GST for the month of October 2017, received in November (upto 27th Nov, 2017)

A sum of Rs 83,346 crores has been collected as Total Revenue Collection under GST for the month of October, received in November till 27th November 2017. 95.9 lakh taxpayers have been registered under GST so far, of which 15.1 lakh are composition dealers who are required to file returns every quarter. 50.1 lakh returns have been filed for the month of October till 26th November 2017.

Revenue of States: The States have collected a total of Rs. 87,238 crores by way of SGST in the months of August, September, October and November 2017 (till 27th November). Further on all inter-state trade, a net amount is transferred from IGST account to the SGST account whenever IGST collected is used for payment of SGST. By way of settlement an amount of Rs. 31,821 crores have been released to the States for the months of August, September and October 2017. Rs13,882 crores are being released by way of settlement to all the States for the month of November 2017. Further, as per Goods and Services (Compensation to States) Act 2017, the States revenues are fully protected against any shortfall in GST

collections. A compensation amount of Rs. 10,806 crores have been released to all the States for the months of July and August 2017 and a compensation of Rs. 13,695 crores for the months of September and October 2017 is being released. The States revenues have thus been fully protected taking base year revenue as 2015-16 and providing for a projected revenue growth rate of 14%.

Centre's Revenue: The total CGST income in the months of August, September, October and November (till 27th November) has been Rs. 58,556 crores. In addition to this, an amount of Rs. 16,233 crores has been transferred from IGST account to CGST account by way of settlement of funds on account of inter-state supply of goods and services in the month of August, September and October, 2017. Further, Rs. 10,145 crores is being transferred to CGST account from IGST account for the month of November 2017 by way of settlement. The major reason for the gap in income of CGST and SGST has been that more CGST liability has been discharged using transition credit rather than by way of cash. Thus, taxpayers are using the balance credit available with them in the previous tax regime, which is the reason of gap in the Centre's revenue.

The reason for downward trend of tax revenue under GST could be attributed to the following factors:

- Because of the first time requirement of paying IGST on transfer of goods from one state to another state even within the same company, there was an additional cash flow of IGST in the first 3 months. As and when the final transaction of these goods takes place, the credit for IGST is being utilized for payment of SGST and CGST and therefore, the inflow of new taxes is low;
- Since the overall incidence of taxes on most of the commodities have come down under GST, it would naturally have some implication on the revenues of the Government.
- The tax administration of GST is now based on self-declared Tax Return, in which the assessee decides on his own how much tax liability he has and claims input tax credit as per his own calculations. Since implementation of some of the main features of GST such as, matching of returns, e-way bill as well as reverse charge mechanism have been postponed the tax compliance may not be up to the mark.

Returns filed: The total number of GSTR 3B returns filed for the return period July, August, September and October 2017 till 26th November is 58.7 lakh, 58.9 lakh, 57.3 lakh and 50.1 lakh respectively.

(Release ID :173899)

[\[http://www.pib.nic.in/newsite/erelease.aspx\]](http://www.pib.nic.in/newsite/erelease.aspx)

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