

GOODS & SERVICES TAX / IDT UPDATE – 68

Mentioning details of inter-State supplies made to unregistered persons in GST returns

A registered supplier is required to mention the details of inter -State supplies made to unregistered persons, composition taxable persons and UIN holders in Table 3.2 of FORM GSTR-3B. Further, the details of all inter-State supplies made to unregistered persons where the invoice value is up to Rs 2.5 lakhs (rate-wise) are required to be reported in Table 7B of FORM GSTR-1 but the number of registered persons has not reported the details of inter-State supplies made to unregistered persons in Table 3.2 of FORM GSTR-3B. However, the said details have been mentioned in Table 7B of FORM GSTR-1

Therefore in order to ensure uniformity in the implementation of the provisions of law, The Central Government vide *Circular no 89/08/2019-GST dated the 18th Feb, 2019* has clarified that apportionment of IGST collected on inter–State supplies made to unregistered persons in the State where such supply takes place is based on the information reported in Table 3.2 of FORM GSTR-3B by the registered person. As such, non-mentioning of the said information results in –

- (i) non-apportionment of the due amount of IGST to the State where such supply takes place; and
- (ii) a mis-match in the quantum of goods or services or both actually supplied in a State and the amount of integrated tax apportioned between the Centre and that State, and consequent non-compliance of sub-section (2) of section 17 of the Integrated Goods and Services Tax Act, 2017.

Accordingly, persons making inter-State supplies to unregistered persons shall report the details of such supplies both in Table 3.2 of FORM GSTR-3B and Table 7B of FORM GSTR–1 and contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of section 125 of the CGST Act.

Comment: It appears that the consequence of penalty ought not to be the reason for correctly filing the returns. Care must be taken to file returns with correct and complete information.

[Circular no 89/08/2019-GST dated the 18th Feb, 2019]

Compliance of rule 46(n) of the CGST Rules, 2017 while issuing invoices in case of inter- State supply

It has been brought to the notice that a number of registered persons (especially the

banking, insurance and telecom sectors, etc.) are not mentioning the place of supply along with the name of the State in case of a supply made in the course of interstate trade or commerce.

-Therefore, in order to ensure uniformity in the implementation of the provisions of law, the Central Government vide *Circular No. 90/09/2019-GST dated 18th Feb, 2019* has clarified that all registered persons making supply of goods or services or both in the course of inter-State trade or commerce shall specify the place of supply along with the name of the State in the tax invoice.

The provisions of sections 10 and 12 of the Integrated Goods and Services Tax Act, 2017 may be referred to in order to determine the place of supply in case of supply of goods and services respectively. Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of sections 122 or 125 of the CGST Act.

Comment: This is a very important information that industry needs to take care as it affects flow of revenue to the appropriate State based on the Place of Supply information.

[Circular No. 90/09/2019-GST dated 18th Feb, 2019]

Clarification regarding tax payment made for supply of warehoused goods while being deposited in a customs bonded warehouse

Supply of warehoused goods while deposited in custom bonded warehouses had the character of inter-State supply as per the provisions of IGST Act, 2017. But, due to non-availability of the facility on the common portal, suppliers have reported such supplies as intra-State supplies and discharged central tax and state tax on such supplies instead of integrated tax.

Therefore, the Central Government vide *Circular no. 91/10/2019-GST dated 18th Feb, 2019* in view of revenue neutral position of such tax payment and that facility to correctly report the nature of transaction in FORM GSTR-1 furnished on the common portal was not available during the period July, 2017 to March, 2018, has clarified that the suppliers who have paid central tax and state tax on such supplies, during the said period, would be deemed to have complied with the provisions of law as far as payment of tax on such supplies is concerned as long as the amount of tax paid as central tax and state tax is equal to the due amount of integrated tax on such supplies.

Comment: This is a welcome relief to trade and industry. Similar instances have occurred in the case of outbound intermediary services where IGST has been paid. While there is compelling similarity, this circular expressly applies to warehoused goods only.

Another instance where incorrect taxes have been paid are cases where debonding of

warehoused goods on which BCD+IGST has been paid whereas circular 50/2018-Customs dated 6 Dec 2018, which states that 'duties foregone on import' only need to be paid but on depreciated values.

Relief brought by the GST circular (above) puts at rest concerns raised for the period prior to circular 3/1/2018-IGST dated 25 May 2018 (w.e.f 1st April 2018 the supply of goods before their clearance from the warehouse would not be subject to the levy of integrated tax). Reference to premise – 'revenue neutral' position of payment of taxes – stated in this circular, is interesting and may be kept for future reference while addressing bona fide errors in payment of taxes.

[Circular no. 91/10/2019-GST dated 18th Feb, 2019]

GST Knowledge Sharing

For Previous updates, GST articles, GST webcasts, publications, GST Legal Updates & E-Newsletter, Upcoming GST Events etc. please visit

GST articles	http://idtc.icai.org/knowledgesharing.php
GST Legal Updates & E-Newsletter on GST	http://idtc.icai.org/gst.html
GST webcasts	http://idtc.icai.org/live-webcasts-series.html
Publications	http://idtc.icai.org/publications.php
Upcoming GST events	http://idtc.icai.org/upcoming-events.php

Disclaimer

Information published in the update are taken from publicly available sources and believed to be accurate. The Indirect Taxes Committee of ICAI takes no responsibility of accuracy and reliability of information published in the newsletter. No part of this update may be reproduced, stored in a retrieval system, or transmitted in any form or by any means – electronic, mechanical, photocopying, recording, or otherwise without the permission of Indirect Taxes Committee of ICAI.

ICAI Feedback

The GST Update is an endeavour of the Indirect Taxes Committee to apprise the readers about the amendments made in various central indirect tax laws vide significant notifications, circulars etc. We welcome your feedback on the Update and its contents. Please email at idtc@icai.in for feedback.

You can also write to:

Secretary

Indirect Taxes Committee

The Institute of Chartered Accountants of India
ICAI Bhawan A-29, Sector -62,
NOIDA (U.P.) India
Website: www.idtc.icai.org