

EXPORT PROMOTION COUNCIL FOR EOUs AND SEZs

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EPCES CIRCULAR NO. 327

Sub :CBIC Clarifications on GST

1. **CBIC has issued few circulars to clarify certain issues represented by various stakeholders on behalf of trade and industry. Below is gist of clarifications provided in circulars dated 28.06.2019.**

Issue	Clarification by CBIC
Circular no. 105/24/2019 – GST dated 28th June 2019	
GST on pre-agreed post sale discount which is not on account of additional obligation on dealer	<ul style="list-style-type: none"> • Eligible for deduction from transaction value under GST
GST on pre-agreed post sale discount (<i>eligible for deduction from transaction value under GST</i>) which is on account of additional obligation on dealer such as undertaking special sales drive, advertisement campaign, exhibition etc.	<ul style="list-style-type: none"> • Additional obligation casted upon dealer shall be treated as separate supply of service liable to GST in hands of dealer under forward charge mechanism; • Supplier offering such discount to be treated as recipient of services and shall be eligible to claim ITC;
Additional discount given by supplier of goods for sale augmentation by way of offering special reduced price by dealer to customer	<ul style="list-style-type: none"> • Treated to be consideration indirectly flowing from supplier of goods to dealer pertaining to transaction between such dealer and his customer; • Customer eligible to take ITC only to the extent of tax actually paid by him
ITC reversal in hands of recipient dealer in cases where non-deductible discounts are passed on by way of commercial / financial credit notes	<ul style="list-style-type: none"> • ITC reversal not required on account of such commercial / financial credit notes
Circular no. 104/23/2019 – GST dated 28th June 2019	
Processing of refund applications by State or Centre tax authorities in cases where GSTN has wrongly mapped application processing authority of State for taxpayers administered by Centre jurisdiction and vice-versa	<ul style="list-style-type: none"> • In such cases, processing of the refund claim should not be held up and it should be processed by the tax authority to whom the refund application has been electronically transferred by the common portal. • After the processing of the refund application is complete, the refund processing authority may inform the common portal about the incorrect mapping with a request to update it suitably.
Circular no. 102/21/2019 – GST dated 28th June 2019	
GST on additional / penal interest on account of delay in payment of EMI	<ul style="list-style-type: none"> • Levy of additional / penal interest does not fall within the ambit of “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act. • Additional/ Penal Interest charged by supplier on

	<p>delayed payment of EMI shall be includible in the value of supply for the purpose of levy of GST.</p> <ul style="list-style-type: none"> Exemption of GST in respect of interest shall be available only interest paid on money borrowed or debt incurred only as per N/N 12/2017 CGST (rate) dated 28.06.2017.
Circular no. 103/22/2019 – GST dated 28th June 2019	
Place of supply of various cargo handling services provided by ports to clients	<ul style="list-style-type: none"> Port services in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc. are ancillary to cargo handling and not related to immovable property Place of supply shall be location of recipient
Place of supply of services rendered on goods temporarily imported into India	<ul style="list-style-type: none"> In terms of exception carved out in section 13(3)(a) of IGST Act, of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, shall be determined based on location of recipient

2. Further to announcement of extension in due date, Government has issued a press release to clarify certain issues related to reporting requirements under GST annual return and audit report for FY 2017-18. Key takeaways are summarized below for your ready reference.

Short payment of tax	<ul style="list-style-type: none"> Short paid tax in monthly returns can be voluntarily discharged through Form DRC – 03 along with interest; In such cases, no penalty shall be levied; Summary of such turnover can be declared in annual return Form 9;
Excess tax paid	<ul style="list-style-type: none"> Shall be declared in annual return Eligible refund can be applied through RFD 01A;
Input tax credit	<ul style="list-style-type: none"> ITC cannot be availed or reversed through annual return; Liability to reverse ITC shall be separately done through Form DRC 03;
ITC claimed vs. 2A reconciliation (table 8)	<ul style="list-style-type: none"> ITC availed between July 2017 to March 2019 is required to be summarized; ITC not availed within due date shall lapse, however, there shall be no requirement to effect reversal since it is not credited to electronic credit ledger; Auto-populated figures of ITC as per 2A are per status as

	on 01st May 2019;
Additional information in annual return which was not part of monthly filings	<ul style="list-style-type: none"> Supplies received from composition taxpayers can be declared to best of knowledge and records; HSN summary of inward supplies can be declared to best of knowledge and records; Data is for informational purpose and reasonable variations shall not be viewed adversely;
Exempted, NIL rated and Non-GST supplies	<ul style="list-style-type: none"> Overlapping cases of NIL rated vis-à-vis exempted supplies shall not be viewed adversely; Non-GST supplies includes supply of alcoholic liquor for human consumption, motor spirit (commonly known as petrol), high speed diesel, aviation turbine fuel, petroleum crude and natural gas and transactions specified in Schedule III of the CGST Act;
Additional reverse charge payments	<ul style="list-style-type: none"> RCM liability for FY 2017-18 paid in FY 2018-19 shall be reported in annual return for FY 2018-19 only; Variations shall be reported with reasons in audit report (9C);
Debit / credit notes	<ul style="list-style-type: none"> Tax Credit notes pertaining to FY 2017-18 issued upto Sep'18 can be declared in annual return; Debit notes can be declared in reconciliation statement as "other adjustments" in point 5-O
Reconciliation of ITC on expenses	<ul style="list-style-type: none"> Reconciliation required only for expenses on which ITC has been availed; List of expense in Form 9C is indicative and additional fields can be added;

This is for kind information of the members.
