

GST

Central Circulars on Goods
(Updated up to 31st December, 2023)

GST

Central Circulars on Goods



Compiled by:

GST Policy Planning Unit
Directorate of Commercial Taxes
Government of West Bengal.

GST

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(Updated up to 31st December, 2023)

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1.Reference WBGST and CGST Circulars on Goods:

Sl. No.	Subject Matter	Central Circular No & Date	State Trade Circular No & Date
1	Clarification on Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance	1/1/2017-IGST dt 07.07.2017	----
2	Issue related to classification and GST rate on lottery tickets	06/06/2017-CGST, dt 27.08.2017	----
3	Clarification on issues wherein the goods are moved within the State or from the State of registration to another State for supply on approval basis	10/10/2017-CGST, dt 18.10.2017	11/2017 dt 18.10.2017
4	Clarification regarding applicability of GST on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB]	12/12/2017-GST dt. 26.10.2017	15/2018 - 17.09.2018
5	Clarification on Unstitched Salwar Suits	13/13/2017-GST dt. 27.10.2017	16/2018 - 17.09.2018
6	Procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of CGST Act, 2017	14/14/2017-GST dt 06.11.2017	17/2018- 17.09.2018
7	Issue related to classification and GST rate on Terracotta idols	20/20/2017-IGST dt. 22.11.2017	21/2018- 17.09.2018
8	Clarification on Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes]	21/21/2017-GST dt. 22.11.2017	22/2018- 17.09.2018
9	Clarification regarding applicability of GST on Polybutylene feedstock and Liquefied Petroleum Gas retained for the manufacture of Poly Iso Butylene and Propylene or Di-butyl para Cresol	29/3/2018-GST dt. 25.01.2018	25/2018- 17.09.2018
10	Applicability of Integrated Goods and Services Tax (integrated tax) on goods supplied while being deposited in a customs bonded warehouse	3/1/2018-IGST dt. 25.05.2018	-----
11	Applicable GST rate on Priority Sector Lending Certificates (PSLCs), Renewable Energy Certificates (RECs) and other similar scrips	46/20/2018-GST dt. 06.06.2018	-----
12	Clarification regarding applicability of GST on various goods and services	52/26/2018-GST, dt. 09.08.2018	11/2018- 13.08.2018
13	Clarification regarding applicability of GST	.53/27/2018-GST	12/2018-

	on the petroleum gases retained for the manufacture of petrochemical and chemical products	dt. 09.08.2018	13.08.2018
14	Classification of fertilizers supplied for use in the manufacture of other fertilizers at 5% GST rate	54/28/2018-GST, dt. 09.08.2018	13/2018-13.08.2018
15	Levy of GST on Priority Sector Lending Certificates (PSLC)	62/36/2018-GST dt. 12.09.2018	45/2018-18.09.2018
16	Clarification regarding GST rates & classification (goods)	80/54/2018-GST, dt. 31.12.2018	58/2018-31-12-2018
17	Clarification regarding GST rate for Sprinkler and Drip Irrigation System including laterals	81/55/2018-GST dt. 31.12.2018	59/2018-31-12-2018
18	Rescinding of Circulars issued earlier under the IGST Act, 2017 to be effective from 01.02.2019	04/01/2019-IGST dt. 01.02.2019	----
19	Clarification regarding tax payment made for supply of warehoused goods while being deposited in a customs bonded warehouse for the period July, 2017 to March, 2018	91/10/2019-GST dt. 18.02.2019	11/2019-18.02.2019
20	Clarification on various doubts related to treatment of sales promotion schemes under GST	92/2019 dt 07.03.2019	20/2018 dt. 02.05.2019
21	Nature of Supply of Priority Sector Lending Certificates (PSLC)	93/12/2019-GST dt.08.03.2019	13/2019-11.03.2019
22	Clarification on various doubts related to treatment of secondary or post-sales discounts under GST	105/24/2019-GST dt 28-06-2019	26/2019 dt 28.06.2019
23	Clarification in respect of goods sent/taken out of India for exhibition or on consignment basis for export promotion	108/27/2019-GST dt 18.07.2019	29/2019 dt. 22.07.2019
24	Withdrawal of Circular No. 105/24/2019-GST dated 28.06.2019	112/31/2019-GST dt 03.10.2019	33/2019 dt. 17.10.2019
25	Clarification regarding GST rates & classification (goods)	113/32/2019-GST dt 11.10.2019	34/2019 dt. 17.10.2019
26	Clarification regarding GST rate on laterals/parts of Sprinklers or Drip Irrigation System	155/11/2021 dt 17-06-2021	15/2021 dt. 30-06-2021
27	Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 45th meeting held on 17th September, 2021	163/19/2021 dt 06-10-2021	23/2021 dt 03.11.2021
28	Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 47th meeting held on 28th – 29th June, 2022	179/11/2022 dt 03-08-2022	TC No. 02/2023 dt 22-08-2023

	at Chandigarh		
29	Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 48th meeting held on 17th December, 2022	189/11/2023 dt 13-01-2023	TC No. 03/2023 dt 22-08-2023
30	Clarification regarding GST rate and classification of 'Rab' based on the recommendation of the GST Council in its 49th meeting held on 18th February 2023	191/03/2023-GST dt. 27-03-2023	TC No. 05/2023 dt 22-08-2023
31	Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023	200/12/2023-GST dt. 01-08-2023	TC No. 13/2023 dt 13-09-2023
32	Clarification regarding GST rate on imitation zari thread or yarn based on the recommendation of the GST Council in its 52nd meeting held on 7th October, 2023	205/17/2023-GST dt 31-10-2023	TC No. 21/2023 dt18-12-2023

2. Clarification on Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance- regarding. [Circular No. 1/1/2017-IGST]

Circular No. 1/1/2017-GST New Delhi, 7th of July, 2017

The issue relating to levy of IGST exemption on inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax 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] has been examined.

2. In the above context, the legal provisions in GST laws are as under:
- a) As per section 24 (1) (i) of the Central Goods and Services Tax Act, 2017, persons making any inter-State taxable supply shall be required to be registered under this Act.
 - b) As per section 25(4) of the said Act a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
 - c) Schedule I to the said Act specifies situations where activities are to be treated as supply even if made without consideration which also includes supply of goods or services or both between related persons or between distinct persons as specified in

section 25, when made in the course or furtherance of business

- d) Section 7 (2) envisages that activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as *public authorities*, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

3. Against the above background, the issue of inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including-

- i. Trains,
- ii. Buses,
- iii. Trucks,
- iv. Tankers,
- v. Trailers,
- vi. Vessels,
- vii. Containers,
- viii. Aircrafts,

(a) carrying goods or passengers or both; or (b) for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council's meeting held on 11th June, 2017 and the Council recommended that such inter-state movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

4. In view of above, it is hereby clarified that "the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017, including the ones specified at (i) to (viii) of para 3, may not be treated as supply and consequently IGST will not be payable on such supply.

5. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

3. Issue related to classification and GST rate on lottery tickets [Circular No. 06/06/2017-CGST]

**Circular No. 06/06/2017-CGST
New Delhi, 27th August, 2017**

Supply of lottery has been treated as supply of goods under the Central Goods and Services Tax (CGST) Act, 2017.

2. Accordingly, based on the recommendation of the GST Council, the GST rate for supply of lottery has been notified under relevant GST rate notification relating to CGST/IGST/UTGST/SGST. However, entries in the respective notifications mention classification for lottery as“-".

3. In this connection, references have been received, *inter-alia*, stating that due to discrepancy in code allotted, i.e., lottery is defined as goods but code allotted for lottery is under

services, the assesseees are not able to upload return or deposit tax in time.

4. The matter has been examined. It should be noted that the process of filing return is linked with rate of tax specified for supply. Further, there is complete clarity about rate of tax on lotteries. As mentioned above, in GST, lottery is goods and the classification indicated in relevant notification for lottery is “-”, which means any chapter.

5. That being so, it is clarified that the classification for lottery in respective CGST, IGST, UTGST and SGST notifications shall be ‘Any Chapter’ of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and tax on lottery should be paid accordingly at prescribed rates, 12% or 28%, as the case may be.

4. Clarification on issues wherein the goods are moved within the State or from the State of registration to another State for supply on approval basis [Circular No. 10/10/2017-CGST]

Circular No. 10/10/2017-CGST New Delhi, 18th October, 2017

Various communications have been received particularly from the suppliers of jewellery etc. who are registered in one State but may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person. It has also been represented that such goods are also carried within the same State for the purposes of supply. Therefore, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter as follows -

2. It is seen that clause (c) of sub-rule (1) of rule 55 of the Central Goods and Services Tax Rules, 2017 (hereafter referred as “the said Rules”) provides that the supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply. Further, sub-rule (3) of the said rule also provides that the said delivery challan shall be declared as specified in rule 138 of the said Rules. It is also seen that sub-rule (4) of rule 55 of the said Rules provides that “*Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods*”.

3. A combined reading of the above provisions indicates that the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of

delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.

4. It is further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and attract integrated tax in terms of Section 5 of the Integrated Goods and Services Tax Act, 2017.

5. It is also clarified that this clarification would be applicable to all goods supplied under similar situations.

5. Clarification regarding applicability of GST on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB] [Circular No. 12/12/2017-GST]

Circular No. 12/12/2017-GST New Delhi, 26th October, 2017

Briefly stated, references have been received related to applicability of GST on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB].

2. In this context, LAB manufacturers have stated that they receive superior Kerosene oil (SKO) from, a refinery, say, Indian Oil Corporation (IOC). They extract n-Paraffin (C9-C13 hydrocarbons) from SKO and return back the remaining of SKO to the refinery. In this context, the issue has arisen as to whether in this transaction GST would be levied on SKO sent by IOC for extracting n-paraffin or only on the n-paraffin quantity extracted by the LAB manufactures. Further, doubt have also been raised as to whether the return of remaining Kerosene by LAB manufactures would separately attract GST in such transaction.

3. The matter was examined. LAB manufacturers generally receive superior kerosene oil [SKO] from are finery through a dedicated pipeline; on an average about 15 to 17% of the total quantity of SKO received from refinery is retained and balance quantity ranging from 83%- 85% is returned back to refinery. The retained SKO is towards extraction of Normal Paraffin, which is used in the manufacturing of LAB. In this transaction consideration is paid by LAB manufactures only on the quantity of retained SKO (n-paraffin).

4. In this context, the GST Council in its 22nd meeting held on 06.10.2017 discussed the issue and recommended for issuance of a clarification that in this transaction GST will be payable by the refinery on the value of net quantity of superior kerosene oil (SKO) retained for the manufacture of Linear Alkyl Benzene (LAB).

5. Accordingly, it is here by clarified that, in aforesaid case, GST will be payable by the refinery only on the net quantity of superior kerosene oil (SKO) retained for the manufacture of Linear Alkyl Benzene (LAB). Though, refinery would be liable to pay GST on such returned

quantity of SKO, when the same is supplied by it to any other person.

6. This clarification is issued in the context of Goods & Service Tax (GST) law only and past issues, if any, will be dealt in accordance with the law prevailing at the material time.

6. Clarification on Unstitched Salwar Suits [Circular No.13/13/2017 -GST]

Circular No.13/13/2017-GST New Delhi, 27th October, 2017

Doubts have been raised regarding the classification of Cut pieces of Fabrics under GST.

2. It has been represented that before becoming readymade articles or an apparel, the fabric is cut from bundles or thans and sold in that unstitched state. The consumers buy these sets or pieces and get it stitched to their shape and size.
3. Fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5% with no refund of the unutilized input tax credit.
4. Mere cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract the 5% GST rate.
5. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

7. Procedure regarding procurement of supplies of goods from DTA by Export Oriented Unit (EOU) / Electronic Hardware Technology Park (EHTP) Unit / Software Technology Park (STP) Unit / Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of CGST Act, 2017 [Circular No.14/14/2017-GST]

Circular No.14/14/2017-GST New Delhi, 6th November, 2017

In accordance with the decisions taken by the GST Council in its 22nd meeting held on 06.10.2017 at New Delhi to resolve certain difficulties being faced by exporters post- GST, it has been decided that supplies of goods by a registered person to EOUs etc. would be treated as deemed exports under Section 147 of the CGST Act, 2017 (hereinafter referred to as 'the Act') and refund of tax paid on such supplies can be claimed either by the recipient or supplier of such supplies. Accordingly, Notification No. 48/2017-Central Tax dated 18.10.2017 has been issued to treat such supplies to EOU / EHTP / STP / BTP units as deemed exports. Further, rule 89 of the CGST Rules, 2017 (hereinafter referred to as 'the Rules') has been amended vide Notification No. 47/2017- Central Tax dated 18.10.2017 to allow either the recipient or supplier of such supplies to claim refund of tax paid thereon.

2. For supplies to EOU / EHTP / STP / BTP units in terms of Notification No. 48/2017- Central Tax dated 18.10.2017, the following procedure and safeguards are prescribed-

(i) The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in a prescribed proforma in "Form-A" (appended herewith) bearing a running serial number containing the goods to be procured, as pre-approved by the Development Commissioner and the details of the supplier before such deemed export supplies are made. The said intimation shall be given to-

- (a) the registered supplier;
- (b) the jurisdictional GST officer in charge of such registered supplier; and
- (c) its jurisdictional GST officer.

(ii) The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.

(iii) On receipt of such supplies, the EOU / EHTP / STP / BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to-

- (a) the registered supplier;
- (b) the jurisdictional GST officer in charge of such registered supplier; and
- (c) its jurisdictional GST officer.

(iv) The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit.

(v) The recipient EOU / EHTP / STP / BTP unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B" (appended herewith). The software for maintenance of digital records shall incorporate the feature of audit trail. While the data elements contained in the Form-B are mandatory, the recipient units will be free to add

or continue with any additional data fields, as per their commercial requirements. All recipient units are required to enter data accurately and immediately upon the goods being received in, utilized by or removed from the said unit. The digital records should be kept updated, accurate, complete and available at the said unit at all times for verification by the proper officer, whenever required.

A digital copy of Form – B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month (by the 10th of month) in a CD or Pen drive, as convenient to the said unit.

3. The above procedure and safeguards are in addition to the terms and conditions to be adhered to by a EOU / EHTP / STP / BTP unit in terms of the Foreign Trade Policy, 2015- 20 and the duty exemption notification being availed by such unit.

4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

Form – A

(Intimation for procurement of supplies from the registered person by Export Oriented Unit (EOU)/ Electronic Hardware Technology Park (EHTP) Unit/ Software Technology Park (STP) unit/ Bio-Technology Parks (BTP) Unit under deemed export benefits under section 147 of CGST Act,2017 read with Notification No. 48/2017-Central Tax dated18.10.2017)

(As per Circular----- dated -----)

Running Sr. No. of intimation and Date _____

LOP No. ----- and valid up to ----- .

GSTIN -----

We the, M/s(Name of EOU/EHTP/STP/BTP unit and address)wish to procure the Goods namely (Tariff description, Quantity and value)-----

-----, as allowed under Foreign Trade Policy and Handbook of Procedures 2015-

2020, and approved by Development Commissioner from M/s-----

(Name of supplier, address and Goods & Services Tax Identification Number (GSTIN)). Such supplies on receipt would be used in manufacturing of goods or rendering services by us. We would also abide by procedure set out in Circular no. ----- dated ----.

Signatures of the owner of EOU/EHTP/STP/BTP unit or his
Authorised officer

To:

1. The GST officer having Jurisdiction over the EOU/EHTP/STP/BTP unit.
2. The GST officer having Jurisdiction over the registered person intending to supply the goods.
3. The registered person intending to supply goods to EOU/EHTP/STP/BTP unit.

For the month of.....

FORM- B

Form to be maintained by EOU/EHTP/STP/BTP unit for the receipt, use and removal of goods received under deemed export benefit under section 147 of CGST Act, 2017 read with Notification No.48/2017-Central Tax dated 18.10.2017.
(as per Circular----- dated -----)

Name of EOU/EHTP/STP/BTP unit and address GSTIN No.

Address of Jurisdiction GST Officer

Sr No.	Date of prior intimation given for procuring deemed export supplies	Details of registered person			Jurisdictional GST officer details of registered person		Invoice no. and date of registered person		Details of supplies received			Amount of GST paid by supplier			Date of sending endorsed copy of tax invoice by EOU	
		Name	Address	GSTIN	Designation	Jurisdictional Identifier such as Division name/No.	No. of Invoice	Date	Description	Value	Quantity	Central tax	State Tax/ Union territory Tax	Integrated tax		Cess
1																
2																
3																
4																
5																
6																
7																
8																
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11																
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17																

Removal for processing			Remarks (The goods removed for processing shall be accounted in a manner that enables the verification of input-output norms, extent of waste, scrap generated etc)	Other removals /Returns				Balance in stock	
Date & Time of Removal	Quantity	value		Purpose of removal	Date & time	Quantity	value	Quantity	Value
18	19	20	21	22	23	24	25	26	27

8. Issue related to classification and GST rate on Terracotta idols [Circular No. 20/20/2017-IGST]

Circular No. 20/20/2017-IGST
New Delhi, 22nd of November, 2017

The GST rate on Idols made of clay is nil. (S.No.135A of Schedule notification 2/2017 dated 28.06.2017).

2. In this connection, references have been received as to whether this entry would cover idols made of terracotta.
3. The matter has been examined. As terracotta is clay based, terracotta idols will be eligible for Nil rate under Sl. No.135A of notification 2/2017 dated 28.06.2017.

May be, is leviable on repairs and maintenance done for such goods.

9. Clarification on Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes] [Circular No. 21/21/2017-GST]

Circular No. 21/21/2017-GST
New Delhi, 22nd of November, 2017

The issue of IGST exemption on inter-state movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax 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] was examined and a circular 1/1/2017-IGST dated 7.7.2017, was issued clarifying that such inter- state movement shall be treated “neither as a supply of goods nor supply of service” and therefore would not be leviable to IGST.

2. The issue pertaining to inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes] was discussed in GST Council’s meeting held on 10th November, 2017 and the Council recommended that the 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 a supply of goods or supply of service,’ and consequently no IGST would be applicable on such movements.
3. In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case may be, is leviable on repairs and maintenance done for such goods.

10. Clarification regarding applicability of GST on Polybutylene feedstock and Liquefied Petroleum Gas retained for the manufacture of Poly Iso Butylene and Propylene or Di-butyl para Cresol [Circular No 29/3/2018-GST]

**Circular No 29/3/2018-GST
New Delhi, 25th January, 2018**

References have been received related to the applicability of GST on the Polybutylene feedstock and Liquefied Petroleum Gas retained for the manufacture of Poly Iso Butylene and Propylene or Di-butyl para Cresol.

2. In this context, manufacturers of Propylene or Di-butyl para Cresol and Poly Iso Butylene have stated that the principal raw materials for manufacture of such goods are Liquefied Petroleum Gas and Poly butylene feed stock respectively, which are supplied by oil refineries to them on a continuous basis through dedicated pipelines while a portion of the raw material is retained by these manufacturers, the remaining quantity is returned to the oil refineries. In this regard an issue has arisen as to whether in this transaction GST would be leviable on the whole quantity of the principal raw materials supplied by the oil refinery or on the net quantity retained by the manufacturers of Propylene or Di-butyl para Cresol and Poly Iso Butylene.

3. The GST Council in its 25th meeting held on 18.1.2018 discussed this issue and recommended for issuance of a clarification stating that in such transactions, GST will be payable by the refinery on the value of net quantity of polybutylene feedstock and liquefied petroleum gas retained for the manufacture of Poly Iso Butylene and Propylene or Di-butyl Para Cresol.

4. Accordingly, it is hereby clarified that, in the aforesaid cases, GST will be payable by the refinery only on the net quantity of Polybutylene feedstock and Liquefied Petroleum Gas retained by the manufacturer for the manufacture of Poly Iso Butylene and Propylene or Di-butyl para Cresol. Though, the refinery would be liable to pay GST on such returned quantity of Polybutylene feedstock and Liquefied Petroleum Gas, when the same is supplied by it to any other person.

5. This clarification is issued in the context of the Goods and Service Tax (GST) law only and past issues, if any, will be dealt in accordance with the law prevailing at the material time.

11. Applicability of Integrated Goods and Services Tax (integrated tax) on goods supplied while being deposited in a customs bonded warehouse-reg. [Circular No 3/1/2018-IGST]

**Circular No 3/1/2018-IGST
New Delhi, 25th May, 2018**

Attention is invited to Circular No. 46/2017-Customs dated 24.11.2017 whereby the applicability of integrated tax on goods transferred/sold while being deposited in a warehouse (hereinafter referred to as the “warehoused goods”) was clarified.

2. Various references had been received by the Board on the captioned issue which has now been re-examined by the Board.

3. It is seen that the “transfer/sale of goods while being deposited in a customs bonded warehouse” is a common trade practice whereby the importer files an into-bond bill of entry and stores the goods in a customs bonded warehouse and thereafter, supplies such goods to another person who then files an ex-bond bill of entry for clearing the said goods from the customs bonded warehouse for home consumption.

4. It may be noted that as per sub-section (2) of section 7 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”), the supply of goods imported into the territory of India, till they cross the customs frontiers of India, is treated as a supply of goods in the course of inter-State trade or commerce. Further, the proviso to sub-section (1) of section 5 of the IGST Act provides that the integrated tax on goods imported into India would be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the “CTA”). Thus, in case of supply of the warehoused goods, the point of levy would be the point at which the duty is collected under section 12 of the Customs Act, 1962 (hereinafter referred to as the “Customs Act”) which is at the time of clearance of such goods under section 68 of the Customs Act.

5. It may also be noted that sub-section (8A) has been inserted in section 3 of the CTA vide section 102 of the Finance Act, 2018, with effect from 31st March, 2018, so as to provide that the valuation for the purpose of levy of integrated tax on warehoused imported goods at the time of clearance for home consumption would be either the transaction value or the value as per sub-section (8) of section 3 of the CTA (i.e. valuation done at the time of filing the into-bond bill of entry), whichever is higher.

6. It is therefore, clarified that integrated tax shall be levied and collected at the time of final clearance of the warehoused goods for home consumption i.e., at the time of filing the ex-bond bill of entry and the value addition accruing at each stage of supply shall form part of the value on which the integrated tax would be payable at the time of clearance of the warehoused goods for home consumption. In other words, the supply of goods before their clearance from the warehouse would not be subject to the levy of integrated tax and the same would be levied and collected only when the warehoused goods are cleared for home consumption from the customs bonded warehouse.

7. This Circular would be applicable for supply of warehoused goods, while being deposited in a customs bonded warehouse, on or after the 1st of April, 2018.

12. Applicable GST rate on Priority Sector Lending Certificates (PSLCs), Renewable Energy Certificates (RECs) and other similar scrips -regarding [Circular No Circular No. 46/20/2018-GST]

Circular No. 46/20/2018-GST New Delhi, 6th June, 2018

Representations have been received seeking clarification regarding the classification and applicable GST rate on the Renewable Energy Certificates (RECs) and Priority Sector Lending Certificates (PSLCs).

2. Earlier, in response to a FAQ, it was clarified (vide advertisement dated 27.07.2017), that MEIS and other scrips like SEIS and IEIS are goods classified under heading 4907 and attract 12% GST, which is the general GST rate for goods falling under heading 4907. Subsequently, the duty credit scrips classifiable under 4907 were exempted from GST, while stock, share or bond certificates and similar documents of title [other than Duty Credit Scrips], classifiable under heading 4907, attract 12% GST.

3. Later on, Circular No. 34/8/2018- GST dated 01.03.2018 (S.No.3) was issued clarifying that PSLCs are taxable as goods at a standard rate of 18 % under the residual entry S. No. 453 of Schedule III of notification No. 01/2017-Central Tax (Rate).

4. As a result, there is lack of clarity on the applicable rate of GST on various scrips/certificates like RECs, PSLCs etc.

5. The matter has been re-examined. GST rate of 18 % under the residual entry at S.No. 453 of Schedule III of notification No. 01/2017-Central Tax (Rate) applies only to those goods which are not covered under any other entries of Schedule I, II, IV, V, or VI of the notification. In other words, if any goods are covered under any of the entries of Schedule I, II, IV, V, or VI, the GST rate applicable on them will be decided accordingly, without resorting to the residual entry 453 of Schedule III.

6. As such, various certificates like RECs, PSLCs etc are classified under heading 4907 and will accordingly attract GST @ 12 %, though duty paying scrips classifiable under the same heading will attract Nil GST {under S.No. 122A of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, as amended *vide* Notification No. 35/2017-Central Tax (Rate) dated 13.10.2017}.

13. Clarification regarding applicability of GST on various goods and services [Circular No. 52/26/2018-GST]

Circular No. 52/26/2018-GST
New Delhi, 9th August, 2018

Representations have been received seeking clarification in respect of applicable GST rates on the following items:

- (i) Fortified Toned Milk
- (ii) Refined beet and cane sugar
- (iii) Tamarind Kernel Powder (Modified & Un Modified form)
- (iv) Drinking water
- (v) Plasma products
- (vi) Wipes using spun lace non-woven fabric
- (vii) Real Zari Kasab (Thread)
- (viii) Marine Engine
- (ix) Quilt and comforter
- (x) Bus body building as supply of motor vehicle or job work
- (xi) Disc Brake Pad

2. The matter has been examined. The issue-wise clarifications are discussed below:

3.1 Applicability of GST on Fortified Toned Milk: Representations have been received seeking clarification regarding applicability of GST on Fortified Toned Milk.

3.2 Milk is classified under heading 0401 and as per S.No. 25 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, fresh milk and pasteurised milk, including separated milk, milk and cream, not concentrated nor containing added sugar or other sweetening matter, excluding Ultra High Temperature (UHT) milk falling under tariff head 0401 attracts NIL rate of GST. Further, as per HSN Explanatory Notes, milk enriched with vitamins and minerals is classifiable under HSN code 0401. Thus, it is clarified that toned milk fortified (with vitamins 'A' and 'D') attracts NIL rate of GST under HSN Code 0401.

4.1 Applicable GST rate on refined beet and cane sugar: Doubts have been raised regarding GST rate applicable on refined beet and cane sugar. *Vide* S. No. 91 of schedule I of notification No.1/2017-Central Tax (Rate) dated 28.06.2017, 5% GST rate has been prescribed on all kinds of beet and cane sugar falling under heading 1701.

4.2 Doubts seem to have arisen in view of S. No. 32 A of the Schedule II of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, which prescribes 12% GST rate on "All goods, falling under tariff items 170191 and 170199 including refined sugar containing added flavouring or colouring matter, sugar cubes (other than those which attract 5% or Nil GST)".

4.3 It is clarified that by virtue of specific exclusion in S. No. 32 A, any sugar that falls under 5% category [at the said S. No. 91 of schedule I of notification No.1/2017-Central Tax (Rate) dated 28.06.2017] gets excluded from the S. No. 32 A of Schedule II. As all kinds of beet and

cane sugar falling under heading 1701 are covered by the said entry at S. No. 91 of Schedule I, these would get excluded from S. No. 32 A of Schedule II, and thus would attract GST @5%.

44 Accordingly, it is clarified that beet and cane sugar, including refined beet and cane sugar, will fall under heading 1701 and attract 5% GST rate.

5.1 Applicable GST rate on treated (modified) tamarind kernel powder and plain (unmodified) tamarind kernel powder: Representation have been received seeking clarification regarding GST rate applicable on treated (modified) tamarind kernel powder and plain (unmodified) tamarind kernel powder.

52 There are two grades of Tamarind Kernel Powder (TKP):- Plain (unmodified) form (hot, water soluble) and chemically treated (modified) form (cold, water soluble).

53 As per S. No. 76 A of schedule I of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, 5% GST rate was prescribed on Tamarind Kernel powder falling under chapter 13. However, certain doubts have been expressed regarding GST rate on Tamarind kernel powder, as the said notification does not specifically mention the word “*modified*”.

54 As both plain (unmodified) tamarind kernel powder and treated (modified) tamarind kernel powder fall under chapter 13, it is hereby clarified that both attract 5% GST in terms of the said notification.

6.1 Applicability of GST on supply of safe drinking water for public purpose: Representations have been received seeking clarification regarding applicability of GST on supply of safe drinking water for public purpose.

6.2 Attention is drawn to the entry at S. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, by virtue of which water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container] falling under HS code 2201 attracts NIL rate of GST.

6.3 Accordingly, supply of water, other than those excluded from S. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, would attract GST at “NIL” rate. Therefore, it is clarified that supply of drinking water for public purposes, if it is not supplied in a sealed container, is exempt from GST.

7.1 GST rate on Human Blood Plasma: References have been received about the varying practices being followed in different parts of the country regarding the GST rates on “human blood plasma”.

7.2 Plasma is the clear, straw coloured **liquid** portion of blood that remains after red blood cells, white blood cells, platelets and other cellular components have been removed. As per the explanatory notes to the Harmonized System of Nomenclature (HSN), plasma would fall under the description antisera and other blood fractions, whether or not modified or obtained by means of biotechnological processes and would fall under HS code 3002.

7.3 Normal human plasma is specifically mentioned at S. No. 186 of List I under S. No. 180 of Schedule I of the notification No. 1/2017-Central Tax (Rate) dated 28th June, 2017, and attracts 5% GST. Other items falling under HS Code 3002 (including plasma products) would attract 12% GST under S.No.61 of Schedule II of the said notification, not specifically covered in the said List I.

7.4 Thus, a harmonious reading of the two entries would mean that normal human plasma would attract 5% GST rate under List I (S. No. 186), whereas plasma products would attract 12% GST rate, if otherwise not specifically covered under the said List.

8.1 Appropriate classification of baby wipes, facial tissues and other similar products: Varied practices are being followed regarding the classification of baby wipes, facial tissues and other similar products, and references have been received requesting for correct classification of these products. As per the references, these products are currently being

classified under different HS codes namely 3307, 3401 and 5603 by the industry.

82 Commercially, wipes are categorized into various types such as baby wipes, facial wipes, disinfectant wipes, make-up remover wipes etc. These products are generally made by using non-woven fabrics of viscose and poly viscous blend and are sprinkled with dematerialized water and various chemicals and fragrances, which impart the essential character to the product. The base raw materials are moisturizing and cleansing agents, preservatives, aqua base, cooling agents, perfumes etc. The textile material is present as a carrying medium of these cleaning/wiping components.

83 According to the General Rules for Interpretation [GRI- 3(b)] of the First Schedule to the Customs Tariff Act (CTA), 1975, "*Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.*" Since primary function of the article should be taken into consideration while deciding the classification, it is clear that the essential character of the wipes in the instant case is imparted by the components which are to be mixed with the textile material.

84 As per the explanatory notes to the HSN, the HS code 5603 clearly excludes non- woven, impregnated, coated or covered with substances or preparations such as perfumes or cosmetics, soaps or detergents, polishes, creams or similar preparations. The HSN is reproduced as follows : "*The heading also excludes:*

Nonwoven, impregnated, coated or covered with substances or preparations [i.e. perfumes or cosmetics (Chapter 33), soaps or detergents (heading 3401), polishes, creams, or similar preparations (heading 3405), fabric, softeners (heading 3809)] where the textile material is present merely as a carrying medium. Further, HS code 3307 covers wadding, felt and non-woven, impregnated, coated or covered with perfumes or cosmetics. The HS code 3401, would cover paper, wadding, felt and non-woven impregnated, coated or covered with soap or detergent whether or not perfumed".

85 Further, as per the explanatory notes to the HSN, the heading 3307 includes *wadding, felt and nonwovens impregnated, coated or covered with perfume or cosmetics*. Similarly, as per explanatory notes to the HSN, the heading 3401 includes *wipes made of paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent, whether or not perfumed or put up for retail sale*.

86 Thus, the wipes of various kinds (as stated above) are classifiable under heading 3307 or 3401 depending upon their constituents as discussed above. Therefore, if the baby wipes are impregnated with perfumes or cosmetics, then the same would fall under HS code 3307 and would attract 18% GST rate. Similarly, if they are coated with soap or detergent, then it would fall under HS code 3401 and would attract 18% GST.

91 **Classification and applicable GST rate on real zari Kasab (thread):** Certain doubts have been raised regarding the classification and applicable GST rate on Kasab thread (a metallised yarn) as yarn falling under heading 5605 attracts 12% GST, as per entry 137 of the Schedule-II-12% of the notification No.01/2017-Central Tax (rate) dated 28.06.2017, while specified embroidery product falling under 5809 and 5810 attracts GST@5%, as per entry no. 220 of the Schedule-I-5% of the above-mentioned notification.

92 The heading 5809 and 5810 cover embroidery and zari articles. These heading do not cover yarn of any kinds. Hence, while these headings apply to embroidery articles, embroidery in piece, in strips, or in motifs, they do not apply to yarn, including Kasab yarn.

93 Further all types of metalized yarns or threads are classifiable under tariff heading 5605. Kasab (yarn) falls under this heading. Under heading 5605, real zari manufactured with silver wire gimped (vitai) on core yarn namely pure silk and cotton and finally gilted with gold would attract 5% GST under tariff item 56050010, as specified at entry no. 218A of Schedule- I-5% of the GST rate schedule. Other goods falling under this heading attract 12% GST. Accordingly, kasab (yarn) would attract 12% GST along with other metallised yarn, whether or not gimped, being textile yarn, combined with metal in the form of thread, strip or powder or covered with

metal including imitation zari thread (S. No. 137 of the Schedule-II-12%). Therefore, it is clarified that imitation zari thread or yarn known as “Kasab” or by any other name in trade parlance, would attract a uniform GST rate of 12% under tariff heading 5605.

101 Applicability of GST on marine engine: Reference has been received seeking clarification regarding GST rates on Marine Engine. The fishing vessels are classifiable under heading 8902, and attract GST @ 5%, as per S. No. 247 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017. Further, parts of goods of heading 8902, falling under any chapter also attracts GST rate of 5%, *vide* S. No. 252 of Schedule I of the said notification. The Marine engine for fishing vessel falling under Tariff item 8408 1093 of the Customs Tariff Act, 1975 would attract a GST rate of 5% by virtue of S. No. 252 of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017.

102 Therefore, it is clarified that the supplies of marine engine for fishing vessel (being a part of the fishing vessel), falling under tariff item 8408 10 93 attracts 5% GST.

11.1 Applicable GST rate on cotton quilts under tariff heading 9404-Scope of the term “Cotton Quilt”.

11.2 Cotton quilts falling under tariff heading 9404 attract a GST rate of 5% if the sale value of such cotton quilts does not exceed Rs. 1000 per piece [as per S. No. 257 A of Schedule I of the notification No. 01/2017-Central Tax (rate) dated 28.06.2017]. However, such cotton quilts, with sale value exceeding Rs.1000 per piece attract a GST rate of 12% (as per S. No. 224A of Schedule II of the said notification). Doubts have been raised as to what constitutes cotton quilt, i.e. whether a quilt filled with cotton with cover of cotton, or filled with cotton but cover made of some other material, or filled with material other than cotton.

11.3 The matter has been examined. The essential character of the cotton quilt is imparted by the filling material. Therefore, a quilt filled with cotton constitutes a cotton quilt, irrespective of the material of the cover of the quilt. The GST rate would accordingly apply.

12.1 Applicable GST rate for bus body building activity: Representations have been received seeking clarifications on GST rates on the activity of bus body building. The doubts have arisen on account of the fact that while GST applicable on job work services is 18%, the supply of motor vehicles attracts GST @28%.

12.2 Buses [motor vehicles for the transport of ten or more persons, including the driver] fall under headings 8702 and attract 28% GST. Further, chassis fitted with engines [8705] and whole bodies (including cabs) for buses [8707] also attract 28% GST. In this context, it is mentioned that the services of bus body fabrication on job work basis attracts 18% GST on such service. Thus, fabrication of buses may involve the following two situations:

a) Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, and charges the customer for the value of the bus.

b) Bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work).

12.3 In the above context, it is hereby clarified that in case as mentioned at Para 12.2(a) above, the supply made is that of bus, and accordingly supply would attract GST@ 28%. In the case as mentioned at Para 12.2(b) above, fabrication of body on chassis provided by the principal (not on account of bodybuilder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.

13.1 Applicable GST rate on Disc Brake Pad: Representations have been received seeking clarification on disc brake pad for automobiles. It is stated that divergent practices of classifying these products, in Chapter 68 or heading 8708 are being followed. Chapter 68 attracts a GST rate of 18%, while heading 8708 attracts a GST rate of 28%.

13.2 Parts and accessories of motor vehicles of headings 8701 to 8705 are classified under heading 8708 and attract 28% GST. Further, friction material and articles thereof (for example, sheets, rolls, strips, segments, discs, washers, pads), not mounted, for brakes, for clutches or the like, with a basis of asbestos, of other mineral substances or of cellulose, whether or not

combined with textiles or other mineral substances or of cellulose, whether or not combined with textiles or other materials are classifiable under heading 6813 and attract 18% GST.

133 In the above context, it is mentioned that as per HSN Explanatory Notes, heading 8708 covers “Brakes (shoe, segment, disc, etc.) and parts there of (plates, drums, cylinders, mounted linings, oil reservoirs for hydraulic brakes, etc.); servo-brakes and parts thereof, while Chapter 68 covers articles of Stone, Plaster, Cement, Asbestos, Mica or similar materials. Further, HSN Explanatory Notes to the heading 6813 specifically excludes:

- i) Friction materials not containing mineral materials or cellulose fibre (e.g., those of cork);
- ii) Mounted brake linings (including friction material fixed to a metal plate provided with circular cavities, perforated tongues or similar fittings, for disc brakes) which are classified as parts of the machines or vehicles for which they are designed (e.g. heading 8708).

134 Thus, it is clear, in view of the HSN Explanatory Notes that the said goods, namely “Disc Brake pad” for automobiles, are appropriately classifiable under heading 8708 of the Customs Tariff Act, 1975 and would attract 28% GST.

14. Clarification regarding applicability of GST on the petroleum gases retained for the manufacture of petro chemical and chemical products [Circular No.53/27/2018-GST]

Circular No.53/27/2018-GST New Delhi, 9th August, 2018

References have been received regarding the applicability of GST on the petroleum gases retained for the manufacture of petrochemical and chemical products during the course of continuous supply, such as Methyl Ethyl Ketone (MEK) feedstock, petroleum gases etc.

2 In this context, it may be recalled that clarifications on similar issues for specific products have already been issued vide circular Nos. 12/12/2017-GST dated 26th October, 2017 and 29/3/2018-GST dated 25th January, 2018. These circulars apply *mutatis mutandis* to other cases involving same manner of supply as mentioned in these circulars. However, references have again been received from some of the manufacturers of other petro chemical and chemical products for issue of clarification on applicability of GST on petroleum gases, which are supplied by oil refineries to them on a continuous basis through dedicated pipelines, while a portion of the raw material is retained by these manufacturers (recipient of supply), and the remaining quantity is returned to the oil refineries. In this regard, an issue has arisen as to whether in this transaction GST would be leviable on the whole quantity of the principal raw materials supplied by the oil refinery or on the net quantity retained by the manufacturers of petro chemical and chemical products.

3. The GST Council in its 28th meeting held on 21.7.2018 discussed this issue and recommended for issuance of a general clarification for petroleum sector that in such transactions, GST will be payable by the refinery on the value of net quantity of petroleum gases retained for the manufacture of petrochemical and chemical products.

4. Accordingly, it is hereby clarified that, in the aforesaid cases, GST will be payable by the refinery only on the net quantity of petroleum gases retained by the recipient manufacturer for the manufacture of petrochemical and chemical products. Though, the refinery would be liable to pay GST on such returned quantity of petroleum gases, when the same is supplied by it to any other person. It is reiterated that this clarification would be applicable *mutatis mutandis* on other cases involving supply of goods, where feed stock is retained by the recipient and remaining residual material is returned back to the supplier. The net billing is done on the amount retained by the recipient.

15. Classification of fertilizers supplied for use in the manufacture of other fertilizers at 5% GST rate [Circular No. 54/28/2018-GST]

Circular No. 54/28/2018-GST New Delhi, 9th August, 2018

References have been received regarding a clarification as to whether simple fertilizers, such as MOP (Murate of Potash) classified under Chapter 31, and supplied for use in manufacturing of a complex fertilizer, are entitled to the concessional GST rate of 5%, as applicable in general to fertilizers (i.e. fertilizers which are cleared to be used as fertilizers).

The matter has been examined. Chapter 31 of the Customs Tariff Act, 1975 covers Fertilizers. The fertilizers are mostly used for increasing soil and land fertility, either directly, or by use in manufacturing of complex fertilizers. However, certain fertilizers and similar goods falling under this Chapter may be used for individual purposes like use of molten urea for manufacture of melamine and urea used in manufacturing of urea-formaldehyde resins or organic synthesis.

In the pre-GST regime, the concessional duty rate was prescribed for fertilizers falling under Chapter 31 of the Tariff (notification No. 12/2012-Central Excise). This concessional rate was applied to goods falling under Chapter 31 which are clearly to be used directly as fertilizers or in the manufacture of other fertilizers, whether directly or through the stage of an intermediate product.

In the GST regime, tax structure on fertilizers has been prescribed on the lines of pre-GST tax incidence. The wording of the GST notification is similar to the central excise notification except certain changes to meet the requirements of GST. These changes were necessitated as GST is applicable on the supply of goods while central excise duty was applicable on manufacture of goods. Accordingly, fertilizers falling under heading 3102, 3103, 3104 and 3105, other than those which are clearly not to be used as fertilizers, attract 5% GST [S. No. 182A to 182D of the First schedule to the notification No.1/2017-Central Tax (Rate) dated 28.06.2017].

However, the fertilizers items falling under the above-mentioned headings, which are *clearly not to be used as fertilizer* attract 18% GST [S.No.42 to 45 of the III schedule to the notification No.1/2017 Central Tax (Rate)]. The intention has been to provide concessional rate of GST to the fertilizers which are used directly as fertilizers or which are used in the manufacturing of complex fertilizers which are further used as soil or crop fertilizers. The phrase “*other than clearly to be used as fertilizers*” would not cover such fertilizers that are used for making complex fertilizers for use as soil or crop fertilizers.

Thus, it is clarified that the fertilizers supplied for direct use as fertilizers, or supplied for use in the manufacturing of other complex fertilizers for agricultural use (soil or crop fertilizers), will attract 5% IGST.

16. Levy of GST on Priority Sector Lending Certificates (PSLC) [Circular No. 62/36/2018-GST]

Circular No. 62/36/2018-GST New Delhi, 12th September, 2018

Representations have been received requesting to clarify the following:

- (i) Mechanism for discharge of tax liability on trading of Priority Sector Lending Certificate (PSLC) for the period 1.7.2017 to 27.5.2018.
- (ii) GST rate applicable on trading of PSLCs.

2 The representations have been examined. With the approval of the GST Implementation Committee of the GST Council, it is clarified that GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis and GST rate of 12% will be applicable on the supply.

17. Clarification regarding GST rates & classification (goods) [Circular No. 80/54/2018-GST]

**Circular No. 80/54/2018-GST
New Delhi, 31st December, 2018**

Representations have been received seeking clarification in respect of applicable GST rates on the following items:

- (i) Chhatua or Sattu
- (ii) Fish meal and other raw materials used for making cattle/poultry/aquatic feed
- (iii) Animal Feed Supplements/feed additives from drugs
- (iv) Liquefied Petroleum Gas for Domestic Use
- (v) Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP
- (vi) Wood logs for pulping
- (vii) Bagasse based laminated particle board
- (viii) Embroidered fabric sold in three pieces cloth for lady suits
- (ix) Waste to Energy Plant-scope of entry No. 234 of Schedule I of notification No. 1125-F.T. dated 28.06.2017
- (x) Turbo Charger for railways
- (xi) Rigs, tools & Spares moving inter-state for provision of service

2. The matter has been examined. The issue-wise clarifications are discussed below:

3. Applicability of GST on Chhatua or Sattu:

3.1 Doubts have been raised regarding applicability of GST on Chhatua (Known as “Sattu” in Hindi Belt).

3.2 Chhatua or Sattu is a mixture of flour of ground pulses and cereals. HSN code 1106 includes the flour, meal and powder made from peas, beans or lentils (dried leguminous vegetables falling under 0713). Such flour improved by the addition of very small amounts of additives continues to be classified under HSN code 1106. If unbranded, it attracts Nil GST (S. No. 78 of notification 1126-F.T. dated 28.06.2017) and if branded and packed it attracts 5% GST (S. No. 59 of schedule I of notification 1125-F.T. dated 28.06.2017).

4. Applicable GST rate on Fish meal and other raw materials used for making cattle/poultry/aquatic feed:

4.1. Representations have been received seeking clarification regarding GST rate applicable on the other raw materials/inputs used for making cattle/poultry/aquatic feed. The classification dispute here is between the following two entries in the two notifications. The details are as under:

Notification	Tariff Line	Description	Rate
S. No. 102 of notification No. 1126-F.T. dated 28.6.2017	2301, 2302, 2308, 2309	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed , including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake	NIL
S. No. 103 of notification No. 1125-F.T. dated 28.6.2017	2301	Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption ; greaves	5%

4.2 A number of raw materials such as fish meal falling under heading 2301, meat and bone meal also falling under heading 2301, oil cakes of various oil seeds, soya seeds, bran, sharps, residue of starch and all other goods falling under headings 2302, 2303, 2304, etc are used to manufacture/formulation of, aquatic feed, animal feed, cattle feed, poultry feed etc. These raw materials/inputs cannot be directly used for feeding animal and cattle. The Larger Bench of the Hon'ble Supreme Court in the Commissioner of Customs (Import), Mumbai vs. Dilip Kumar [2018 (361) E.L.T 577] has laid down that inputs for animal feed are different from the animal feed. Said S. No. 102 covers the prepared aquatic/ poultry/cattle feed falling under headings 2309 and 2301. This entry does not apply to raw material/inputs like fish meals or bone and meat meals falling under heading 2301.

4.4 It is accordingly clarified that fish meals and meat and bone meals etc, attract 5% GST under S. No. 103 in notification No. 1125-F.T. dated 28.6.2017

5. **Applicable GST rate on Animal Feed Supplements/feed additives from drugs:**

5.1. Representations have been received seeking clarification regarding GST rate applicable on Animal Feed Supplements/feed additives from drugs. The dispute is in classification of Animal Feed Supplements/feed additives from drugs between tariff heading 2309 and 2936.

5.2 As per the HSN, 2309 inter alia covers reading vitamins and pro vitamins which improve digestion and, more generally, ensure that the animal makes good use of the feeds and safeguard its health. On the other hand, HS code 2936 covers vitamins and pro vitamins which are medicinal in nature and have much higher concentration of active substance.

5.4 Thus while deciding the classification of the products claimed to be animal feed supplements, it may be necessary to ensure that the said animal feed supplements are ordinarily or commonly known to the trade as products for a specific use in animal feeding.

5.5 A product deserves classification chapter 29 (equally applicable to heading 2936), if it is an item of general use, e.g., if a product is of specific use, say dietary supplement for human being product particularly suitable for a specific use rather than for general use. Vitamins and pro vitamins are normally covered under code heading 2936, but if they're prepared as food supplements in the form of tablets, etc. they would not be classifiable under this heading as the way they are presented, they are suitable for a specific use. Heading 2309 would cover items like feed supplements for animals that contain vitamins and other ingredients - such as cereals and proteins. These are covered in chapter 23 under heading code 2309, or antibiotic preparations used in animal feeding - for example a dried antibiotic mass on a carrier like cereal middling. The antibiotic content in these items is usually between 8% and 16%. Thus, HS code 2309 would cover only such product, which in the form supplied, are capable of specific use as food supplement for animals and not capable of any general use. If the vitamins, pro vitamins are supplied in a form in which they are capable of general use, i.e. in the form in which it

could be used as inputs or raw materials for further processing, instead of being ready to use, then these would be classifiable under heading 2936.

6. Applicability of GST on supply of Liquefied Petroleum Gas for Domestic Use:

6.1 Representations have been received seeking clarification regarding applicability of GST rate at 5% on LPG supplied by refiners/fractionators (like GAIL / ONGC) to Oil Marketing Companies (OMC) for ultimate supply to household domestic consumers in terms of Ministry of Petroleum and Natural Gas (MoPNG) letter No. P 20023/2/2011-PP dated 23.07.2013. The references point to the fact that refiners/ fractionators like GAIL and ONGC are supplying LPG for domestic use to OMCs and this supply is not being treated as a supply for domestic use by field formations.

6.2 The issue seems to have arisen in the context of addition of S. No. 165A to notification No. 1125-F.T. dated 28.6.2017, vide notification No. 134-F.T. dated 25.01.2018. This entry was added on the recommendations of the GST Council in its 25th meeting, extending 5% GST rate for supply of LPG to household domestic consumers.

6.3 It is observed that the LPG stream for domestic LPG is differentially priced and packed differently from commercial LPG. The usage of LPG for domestic supply is known at the time of supply being made by refiner/fractionators to OMCs.

6.4 Therefore, it is being clarified that LPG supplied in bulk, whether by a refiner/fractionator to an OMC or by one OMC to another for bottling and further supply for domestic use will fall under the S. No. 165A of the notification No. 1125-F.T. dated 28.06.2017 and shall, accordingly, attract a GST rate of 5%, with effect from 25.1.2018.

7. Applicability of GST on supply of Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP:

7.1 Representations have been received seeking the classification and GST rates on Polypropylene Woven and Non-Woven Bags and Polypropylene Woven and Non-Woven Bags laminated with BOPP

7.2 As per the explanatory notes to the HSN to HS code 39.23, the heading covers all articles of plastics commonly used for the packing or conveyance of all kinds of products and includes boxes, crates, cases, sacks and bags.

7.3 Further as per the Chapter note to Chapter 39, the expression "plastics" means those materials of headings 39.01 to 39.14 which are or have been capable, either at the moment of polymerization or at some subsequent stage, of being formed under external influence (usually heat and pressure, if necessary with a solvent or plasticizer) by moulding, casting, extruding, rolling or other process into shapes which are retained on the removal of the external influence.

7.4 Thus it is clarified that Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP, would be classified as plastic bags under HS code 3923 and would attract 18% GST.

8. Applicability of GST on supply of wood logs for pulping:

8.1 Representation has been received seeking clarification on applicability of GST rate on wood log for pulping. Wood in the rough (whether or not stripped of bark or sapwood, or roughly squared) is classified under heading 4403 and attracts 18% GST.

8.2 As per HSN, heading 4403 also covers.

"timber for sawing; poles for telephone, telegraph or electrical power transmission lines; unpointed and unsplit piles, pickets, stakes, poles and props; round pit-props; logs, whether or not quarter-split, for pulping; round logs for the manufacture of veneer sheets, etc.; logs for the manufacture of match sticks, wood ware, etc."

8.3 Thus, it is clarified that wood logs or any kind of wood in the rough/timber, including the wood in rough/log/timber used for pulping falls under heading 4403 and attract GST at the rate of 18%.

9. Applicability of GST on supply of Bagasse based laminated particle board:

9.1 Representation has been received seeking clarification on applicability of GST rate on Bagasse based laminated particle board. In this context, it is stated that the Bagasse Board has

specific entry at S. No. 92 in Schedule II to the Notification 1125-F.T.. Accordingly, the said entry covers Bagasse boards falling under 44 or any other chapter and 12% GST. Further, it is also stated the description “Bagasse board” in the said entry also covers Bagasse board [whether plain or laminated].

9.2 Thus, it is clarified Bagasse board [whether plain or laminated] falling under chapter 44 will attract concessional GST rate of 12%.

10. Applicability of GST on supply of embroidered fabric sold in three piece for lady suits:

10.1. Representations have been received seeking clarification regarding GST rate applicable on supply of embroidered fabric sold in three pieces fabric pack/set for lady suits (fabric for suit, salwar and dupatta). It has been informed that before becoming readymade articles or an apparel, the fabric is cut from bundles or *thans* and sold in that unstitched state with certain embellishment like gota etc. The consumers buy these sets or pieces and get it tailored which entails cutting of fabric in shape and stitching thereof. Doubts have arisen as regards applicable rates on such three fabric pieces in sets/packs.

10.2 Fabrics are classifiable under chapters 50 to 55 and 60 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5%. Garments and made up articles of textiles under chapters 61, 62 and 63 attract GST at the rate of 5% when value is upto Rs 1000 per piece and 12% when the value exceeds Rs. 1000 per piece.

10.3 Earlier, vide Circular no. 16/2018-CGST dated 13.09.2018, it has been clarified that mere packing of fabrics into pieces of different lengths will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract the 5% GST rate. This clarification would equally apply to three pieces of fabrics sold in a pack as ladies salwar suit. Any embroidery on a fabric piece or certain embellishment thereon does not change the basic nature of their being a fabric. The chapter 63 covers garment, including the unstitched garments which may or may not be sufficiently completed to be identifiable as garments or parts of garments. However, heading 6307 would not cover a fabric pieces or a set of pre-packed fabric pieces, even if embroidered or embellished. Such set of fabric pieces would attract GST at the rate of 5%.

11. Applicability of GST on supply of Waste to Energy Plant:

11.1. Representations have been received regarding applicable GST rate on the goods used in the setting up of Waste to Energy plants (WTEP) in term of Sl. No. 234 of Schedule I of Notification No 1125-F.T. dated 28th June, 2018. The said entry 234 prescribes 5% rate on the following renewable energy devices & parts for their manufacture:

- (a) Bio-gas plant
- (b) Solar power based devices
- (c) Solar power generating system
- (d) Wind mills, Wind Operated Electricity Generator (WOEG)
- (e) Waste to energy plants / devices
- (f) Solar lantern / solar lamp
- (g) Ocean waves/tidal waves energy devices/plant
- (h) Photo voltaic cells, whether or not assembled in modules or made up into panels

11.2 The notification specifically applies only the goods falling under chapters 84, 85 and 94 of the Tariff. Therefore, this concession would be available only to such machinery, equipment etc., which fall under Chapter 84, 85 and 94 and used in the initial setting up of renewable energy plants and devices including WTEP. This entry does not cover goods falling under other chapters, say a transport vehicle falling under Chapter 87 that may be used for movement of waste to WTEP.

11.3 Another related doubt raised is as to how would a supplier satisfy himself that goods

falling under Chapter 84, 85 and 94, say a turbine or a boiler, required in a WTEP, would be used in the WTEP. In this context it is clarified that GST is to be self-assessed by a taxpayer.

Therefore, he needs to satisfy himself with the requisite document from a buyer such as supply contracts/order for WTEP from the concerned authorities before supplying goods claiming concession under said entry 234.

12. Applicability of GST on supply of Turbo Charger for railways:

12.1. Representations have been received seeking clarification regarding classification and applicable GST rate on Turbo Chargers supplied to railways. It is stated that some of the supplier are classifying turbo chargers supplied to Railways under Chapter 86 and paying GST at the rate of 5%

12.2 The turbocharger is a turbine-driven forced induction device that increases an internal combustion engine's efficiency and power output by forcing extra compressed air into the combustion chamber. It has the compressor powered by a turbine. The turbine is driven by the exhaust gas from the engine.

12.3 Turbo charger is specifically classified under chapter HS code 8414 80 30. It continues to remain classified under this code irrespective of its use by Railways. Therefore, it is clarified that the turbo charger is classified under heading 8414 and attracts 18% GST.

13. Applicability of GST on supply of cranes, rigs, tools & Spares and other machinery when moved from one state to another by a person on his account for their use for supply of service

13.1 As per Circular No. 22/2018 dated 13.09.2018, it was clarified that no IGST would be applicable on such interstate movements of rigs, tools & spares and all goods on wheels. Doubts have been raised regarding applicability of GST on inter-state movement of machinery like tower cranes, rigs, batching plants, concrete pumps and mixers which are not mounted on wheels, but require regular means of conveyance (used by companies in Infrastructure business).

13.2 Any inter-state movement of goods for provision of service on own account by a service provider, where no transfer of title in such goods or transfer of goods to the distinct person by way of stock transfer is not involved, does not constitute a supply of such goods. Hence, it is clarified that any such movement on own account (not involving distinct person in terms of section 25), where such movement is not intended for further supply of such goods does not constitute a supply and would not be liable to GST.

18. Clarification regarding GST tax rate for Sprinkler and Drip Irrigation System including laterals [Circular No. 81/55/2018-GST]

Circular No. 81/55/2018-GST
New Delhi, 31st December, 2018

Representations have been received seeking clarification as regards the scope and coverage of entry No. 195B of the Schedule II to notification No. 1125-F.T. [1/2017- State Tax (Rate)], dated 28.06.2017. The entry No. 195B was inserted vide notification No. 134-F.T. [6/2018- State Tax (Rate)], dated 25th January, 2018 and reads as below:

S. No	Chapter Heading/ Sub-heading/Tariff Item	Description of Goods	CGST rate
195B	8424	Sprinklers; drip irrigation system including laterals;	6%

2. Doubts have arisen as in certain cases a view has been taken in the field that this entry would not cover “laterals of sprinklers” and “sprinklers irrigation system”, while laterals of drip irrigations are covered by this entry.

3. The matter has been examined . Initially, with effect from 1. 7. 2017, all goods falling under HS8424, namely, Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines (other than fire extinguishers, whether or not charged), were placed under 18% slab. Subsequently, on the recommendation of the GST Council, the item namely, ‘Nozzles for drip irrigation equipment or nozzles for sprinkler’ was placed under 12% GST slab (Entry No. ‘195A’ with effect from 22.09.2017). Upon revisiting the issue of GST rate on micro irrigation including drip irrigation system, including laterals the GST Council recommended 12% GST rate on micro irrigation system , namely, sprinklers, drip irrigation system , including laterals . Accordingly, the said entry 195B was inserted in the notification No. 1125-F.T. [1/2017- Central Tax (Rate)].

3.1 The micro irrigation, sometimes called ‘localised irrigation’, ‘low volume irrigation’, or ‘trickle irrigation’ is a system where water is distributed under low pressure through piped network, in a pre-determined pattern, and applied as a small discharge to each plant or adjacent to it . The traditional drip irrigation using individual emitters , subsurface drip irrigations (SDI), micro-spray or micro- sprinkler irrigation, and mini bubbler irrigation all belong to the category of micro irrigation method.

4. Therefore, the term “sprinkler s”, in the said entry 195B, covers sprinkler irrigation system. Accordingly, sprinkler system consisting of nozzles, lateral and other components would attract 12% GST rate.

19. Rescinding of Circulars issued earlier under the IGST Act, 2017 to be effective from 01.02.2019 [Circular No 04/01/2019-IGST]

Circular No 04/01/2019-IGST New Delhi, 1st February, 2019

The provisions of the CGST (Amendment) Act, 2018 and SGST Amendment Acts of the respective States have been brought into force w.e.f. 01.02.2019. Schedule III of the CGST Act, 2017 has been amended *vide* section 32 of the CGST (Amendment) Act, 2018 so as to provide that the “supply of warehoused goods to any person before clearance for home consumption” shall be neither a supply of goods nor a supply of services.

2. Accordingly, Circular No. 03/01/2019-IGST dated 25th May, 2018 is hereby rescinded.

20. Clarification regarding tax payment made for supply of warehoused goods while being deposited in a customs bonded warehouse for the period July, 2017 to March, 2018 [Circular No 91/10/2019- GST]

Circular No 91/10/2019-GST New Delhi, 18th February, 2019

Attention is invited to Circular No. 3/1/2018-IGST dated 25.05.2018 whereby applicability of integrated tax on goods transferred/sold while being deposited in a warehouse (hereinafter referred to as the “warehoused goods”) was clarified. In the said circular, it was enunciated that from 1st of April, 2018 the supply of warehoused goods before their clearance from the warehouse would not be subject to the levy of integrated tax.

2. It has been brought to notice of the Board that during the period from 1st of July, 2017 to 31st of March, 2018 (hereinafter referred to as the “said period”), the common portal did not have the facility to enable the taxpayer to report payment of integrated tax, in the details required to be submitted in **FORM GSTR-1**, for such supplies especially where the supplier and the recipient were located in the same State or Union territory. Hence taxpayers making such supplies have reported such supplies as intra-State supplies and discharged central tax and state tax instead of integrated tax accordingly. Now, representations have been received from trade to clarify the same.

3. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017, hereby issues the following instructions.

4. Supply of warehoused goods while deposited in custom bonded warehouses had the character of inter-State supply as per the provisions of Integrated Goods and Services tax 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. 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, it has been decided that, as a one-time exception, 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.

21. Clarification on various doubts related to treatment of sales promotion schemes under GST [Circular No 92/11/2019-GST]

Circular No 92/11/2019-GST New Delhi, 7th March, 2019

Various representations have been received seeking clarification on issues raised with respect to tax treatment of sales promotion schemes under GST. To ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the said Act”) hereby clarifies the issues in succeeding paragraphs.

2. It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products. Some of these schemes have been examined and clarification on the aspects of taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier (hereinafter referred to as the “ITC”) in relation to the said schemes are detailed hereunder:

A. Free samples and gifts:

- i. It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration. As per sub-clause (a) of sub-section (1) of section 7 of the said Act, the expression “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Therefore, the goods or services or both which are supplied free of cost (without any

consideration) shall not be treated as „supply“ under GST (except in case of activities mentioned in Schedule I of the said Act). Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, do not qualify as „supply“ under GST, except where the activity falls within the ambit of Schedule I of the said Act.

- ii. Further, clause (h) of sub-section (5) of section 17 of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of „supply“ on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

B. Buy one get one free offer:

- i. Sometimes, companies announce offers like ‘**Buy One, Get One free**’ For example, ‘buy one soap and get one soap free’ or ‘Get one tooth brush free along with the purchase of tooth paste’. As per sub-clause (a) of sub-section (1) of section 7 of the said Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as ‘supply’ under GST (except in case of activities mentioned in Schedule I of the said Act). It may appear at first glance that in case of offers like ‘Buy One, Get One Free’, one item is being ‘supplied free of cost’ without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as *supplying two goods for the price of one*.
- ii. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.
- iii. It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

C. Discounts including ‘Buy more, save more’ offers:

- i. Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). For example- Get 10 % discount for purchases above Rs. 5000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.
- ii. Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example- Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as “volume

discounts". Such discounts are passed on by the supplier through credit notes.

- iii. It is clarified that discounts offered by the suppliers to customers (including staggered discount under „Buy more, save more“ scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.
- iv. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

D. Secondary Discounts

- i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.
- ii. The provisions of sub-section (1) of section 34 of the said Act provides as under:
“Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.”
- iii. Representations have been received from the trade and industry that whether credit notes(s) under sub-section (1) of section 34 of the said Act can be issued in such cases even if the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.
- iv. It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.
- v. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above in para 2 (D)(iii) or by any other means, except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied.
- vi. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

22. Nature of Supply of Priority Sector Lending Certificates (PSLC) [Circular No 93/12/2019-GST]

Circular No 93/12/2019-GST New Delhi, 8th March, 2019

Representations have been received requesting to clarify whether IGST or CGST/SGST is payable for trading of PSLC by the banks on e-Kuber portal of RBI.

2. In this regard, it is stated that Circular No. 62/36/2018-GST dated 12.09.2018 was issued clarifying that GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis and GST rate of 12% will be applicable on the supply. Further, Notification No. 11/2018-Central Tax (Rate) dated 28.05.2018 was issued levying GST on PSLC trading on reverse charge basis from 28.05.2018 onwards to be paid by the buyer bank.

3. It is further clarified that nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI for both periods i.e 01.07.2017 to 27.05.2018 and from 28.05.2018 onwards. However, where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST as the case may be, such banks for payment already made, shall not be required to pay IGST towards such supply.

23. Clarification on various doubts related to treatment of secondary or post-sales discounts under GST [Circular No. 105/24/2019-GST]

Circular No. 105/24/2019-GST New Delhi, 28th June, 2019

Circular No. 92/11/2019-GST dated 7th March, 2019 was issued providing clarification on various doubts related to treatment of sales promotion schemes under GST. Post issuance of the said Circular various representations have been received from the trade and industry seeking clarifications in respect of tax treatment in cases of secondary discounts or post sales discount. The matter has been examined in order to ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the CGST Act”) clarifies the issues in succeeding paragraphs.

2. For the purpose of value of supply, post sales discounts are governed by the provisions of clause (b) of sub-section (3) of section 15 of the CGST Act. It is crucial to examine the true nature of discount given by the manufacturer or wholesaler, etc. (hereinafter referred to as “the supplier of goods”) to the dealer. It would be important to examine whether the additional discount is given by the supplier of goods in lieu of consideration for any additional activity / promotional campaign to be undertaken by the dealer.

3. It is clarified that if the post-sale discount is given by the supplier of goods to the dealer without any further obligation or action required at the dealer’s end, then the post sales discount given by the said supplier will be related to the original supply of goods and it would not be included in the value of supply, in the hands of supplier of goods, subject to the fulfilment of provisions of sub-section (3) of section 15 of the CGST Act. However, if the additional discount given by the supplier of goods to the dealer is the post-sale incentive requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition etc., then such transaction would be a separate transaction and the additional discount will be the consideration for undertaking such activity and therefore would be in relation to supply of service by dealer to the supplier of goods. The dealer, being supplier of services, would be required to charge applicable GST on the value of such additional discount and the supplier of goods, being recipient of services, will be eligible to claim input tax credit (hereinafter referred to as the “ITC”) of the GST so charged by the

dealer.

4. It is further clarified that if the additional discount is given by the supplier of goods to the dealer to offer a special reduced price by the dealer to the customer to augment the sales volume, then such additional discount would represent the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer. This additional discount as consideration, payable by any person (supplier of goods in this case) would be liable to be added to the consideration payable by the customer, for the purpose of arriving value of supply, in the hands of the dealer, under section 15 of the CGST Act. The customer, if registered, would be eligible to claim ITC of the tax charged by the dealer only to the extent of the tax paid by the said customer to the dealer in view of second proviso to sub-section (2) of section 16 of the CGST Act.

5. There may be cases where post-sales discount granted by the supplier of goods is not permitted to be excluded from the value of supply in the hands of the said supplier not being in accordance with the provisions contained in sub-section (3) of section 15 of CGST Act. It has already been clarified vide Circular No. 92/11/2019-GST dated 7th March, 2019 that the supplier of goods can issue financial / commercial credit notes in such cases but he will not be eligible to reduce his original tax liability. Doubts have been raised as to whether the dealer will be eligible to take ITC of the original amount of tax paid by the supplier of goods or only to the extent of tax payable on value net of amount for which such financial / commercial credit notes have been received by him. It is clarified that the dealer will not be required to reverse ITC attributable to the tax already paid on such post-sale discount received by him through issuance of financial / commercial credit notes by the supplier of goods in view of the provisions contained in second proviso to sub-rule (1) of rule 37 of the CGST Rules read with second proviso to sub-section (2) of section 16 of the CGST Act as long as the dealer pays the value of the supply as reduced after adjusting the amount of post-sale discount in terms of financial / commercial credit notes received by him from the supplier of goods plus the amount of original tax charged by the supplier.

24. Clarification in respect of goods sent/taken out of India for exhibition or on consignment basis for export promotion [Circular No. 108/27/2019-GST]

Circular No. 108/27/2019-GST
New Delhi, 18th July, 2019

Various representations have been received from the trade and industry regarding procedure to be followed in respect of goods sent / taken out of India for exhibition or on consignment basis for export promotion. Such goods sent / taken out of India crystallize into exports, wholly or partly, only after a gap of certain period from the date they were physically sent / taken out of India.

2. The matter has been examined and in view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) hereby clarifies various issues in succeeding paragraphs.

3. As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must satisfy twin tests namely-

- (i) it should be for a consideration by a person; and
- (ii) it should be in the course or furtherance of business.

4. The exceptions to the above are the activities enumerated in Schedule I of the CGST Act which are treated as supply even if made without consideration. Further, sub-section (21) of section 2 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”) defines “supply”, wherein it is clearly stated that it shall have the same meaning as assigned to it in section 7 of the CGST Act.

5. Section 16 of the IGST Act deals with “Zero rated supply”. The provisions contained in the said section read as under:

16. (1) “zero rated supply” means any of the following supplies of goods or services or both, namely:—

- (a) export of goods or services or both; or
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Therefore, it can be concluded that only such “supplies” which are either “export” or are “supply to SEZ unit / developer” would qualify as zero-rated supply.

6. It is, accordingly, clarified that the activity of sending / taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity

satisfy the tests laid down in Schedule I of the CGST Act (hereinafter referred to as the “specified goods”), do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a supply, the same cannot be considered as “Zero rated supply” as per the provisions contained in section 16 of the IGST Act.

7. Since the activity of sending / taking specified goods out of India is not a supply, doubts have been raised by the trade and industry on issues relating to maintenance of records, issuance of delivery challan / tax invoice etc. These issues have been examined and the clarification on each of these points is as under: -

Sl No	Issue	Clarifications
1	Whether any records are required to be maintained by registered person for sending / taking specified goods out of India?	The registered person dealing in specified goods shall maintain a record of such goods as per the format at Annexure to this Circular.
2	What is the documentation required for sending / taking the specified goods out of India?	<p>a) As clarified above, the activity of sending / taking specified goods out of India is not a supply.</p> <p>b) The said activity is in the nature of “sale on approval basis” wherein the goods are sent / taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place. The activity of sending / taking specified goods is covered under the provisions of sub-section (7) of section 31 of the CGST Act read with rule 55 of Central Goods & Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”).</p> <p>c) The specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules.</p> <p>d) As clarified in paragraph 6 above, the activity of sending / taking specified goods out of India is not a zero-rated supply. That being the case, execution of a bond or LUT, as required under section 16 of the IGST Act, is not required.</p>
3	When is the supply of specified goods sent / taken out of India said to take place?	<p>a) As clarified in para 5 above, the activity of sending / taking specified goods out of India is not a zero-rated supply. That being the case, the sender of goods cannot prefer any refund claim when the specified goods are sent / taken out of India.</p> <p>b) It has further been clarified in answer to question no. 3 above that the supply would</p>

		<p>be deemed to have taken place:</p> <p>(i) on the date of expiry of six months from the date of removal, if the specified goods are neither sold nor brought back within the said period; or</p> <p>(ii) on the date of sale, in respect of such quantity of specified goods which have been sold abroad within the specified period of six months.</p> <p>c) It is clarified accordingly that the sender can prefer refund claim even when the specified goods were sent / taken out of India without execution of a bond or LUT, if he is otherwise eligible for refund as per the provisions contained in sub-section (3) of section 54 the CGST Act read with sub-rule (4) of rule 89 of the CGST Rules, in respect of zero rated supply of goods after he has issued the tax invoice on the dates as has been clarified in answer to the question no. 4 above. It is further clarified that refund claim cannot be preferred under rule 96 of CGST Rules as supply is taking place at a time after the goods have already been sent / taken out of India earlier.</p>
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8. The above position is explained by way of illustrations below:

Illustrations:

i) M/s ABC sends 100 units of specified goods out of India. The activity of merely sending / taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules. In case the entire quantity of specified goods is brought back within the stipulated period of six months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case. In case, however, the entire quantity of specified goods is neither sold nor brought back within six months from the date of removal, a tax invoice would be required to be issued for entire 100 units of specified goods in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules within the time period stipulated under sub-section (7) of section 31 of the CGST Act.

ii) M/s ABC sends 100 units of specified goods out of India. The activity of sending / taking such specified goods out of India is not a supply. No tax invoice is required to be issued in

this case but the specified goods shall be accompanied with a delivery challan issued in

accordance with the provisions contained in rule 55 of the CGST Rules. If 10 units of specified goods are sold abroad say after one month of sending / taking out and another 50 units are sold say after two months of sending / taking out, a tax invoice would be required to be issued for 10 units and 50 units, as the case may be, at the time of each of such sale in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. If the remaining 40 units are not brought back within the stipulated period of six months from the date of removal, a tax invoice would be required to be issued for 40 units in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. Further, M/s ABC may claim refund of accumulated input tax credit in accordance with the provisions contained in sub-section (3) of section 54 of the CGST Act read with sub-rule (4) of rule 89 of the CGST Rules in respect of zero-rated supply of 60 units.

25. Withdrawal of Circular No. 105/24/2019-GST dated 28.06.2019 [Circular No. 112/31/2019-GST]

**Circular No. 112/31/2019-GST
New Delhi, 3rd October, 2019**

Kind attention is invited to Circular No. 105/24/2019-GST dated 28.06.2019 wherein certain clarifications were given in relation to various doubts related to treatment of secondary or post-sales discounts under GST.

2) Numerous representations were received expressing apprehensions on the implications of the said Circular. In view of these apprehensions and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017, hereby withdraws, ab-initio, Circular No. 105/24/2019-GST dated 28.06.2019.

26. Clarification regarding GST rates & classification (goods)

[Circular No. 113/32/2019-GST]

Circular No. 113/32/2019-GST New Delhi, 11th October, 2019

Representations have been received seeking clarification in respect of applicable GST rates on the following items:

- (i) Classification of leguminous vegetables such as grams when subjected to mild heat treatment
- (ii) Almond Milk
- (iii) Applicable GST rate on Mechanical Sprayer
- (iv) Taxability of imported stores by the Indian Navy
- (v) Taxability of goods imported under lease.
- (vi) Applicable GST rate on parts for the manufacture solar water heater and system
- (vii) Applicable GST on parts and accessories suitable for use solely or principally with a medical device

2. The issue wise clarifications are discussed below:

3. Classification of leguminous vegetables when subject to mild heat treatment (parching):

3.1. Doubts have been raised whether mild heat treatment of leguminous vegetables (such as gram) would lead to change in classification.

3.2. Dried leguminous vegetables are classified under HS code 0713. As per the explanatory memorandum to the HS 2017, the heading 0713 covers leguminous vegetables of heading 0708 which have been dried, and shelled, of a kind used for human or animal consumption (e.g., peas, chickpeas etc.). They may have undergone moderate heat treatment designed mainly to ensure better preservation by inactivating the enzymes (the peroxidases in particular) and eliminating part of the moisture.

3.3. Thus, it is clarified that such leguminous vegetables which are subjected to mere heat treatment for removing moisture, or for softening and puffing or removing the skin, and not subjecting to any other processing or addition of any other ingredients such as salt and oil, would be classified under HS code 0713. Such goods if branded and packed in a unit container would attract GST at the rate of 5% [S. No. 25 of notification No. 1/2017- Central Tax (Rate) dated 28.06.2017]. In all other cases such goods would be exempted from GST [S. No. 45 of notification No. 2/2017- Central Tax (Rate) dated 28.06.2017].

3.4. However, if the above dried leguminous vegetable is mixed with other ingredients (such as oil, salt etc) or sold as namkeens then the same would be classified under Sub heading 2106 90 as namkeens, bhujia, chabena and similar edible preparations and attract applicable GST rate.

4. Classification and applicable GST rate on Almond Milk:

4.1. References have been received as to whether “almond milk” would be classified as “Fruit Pulp or fruit juice-based drinks” and attract 12% GST under tariff item 2202 99 20.

4.2. Almond Milk is made by pulverizing almonds in a blender with water and is then strained. As such almond milk neither constitutes any fruit pulp or fruit juice. Therefore, it is not classifiable under tariff item 2202 99 20.

4.3. Almond milk is classified under the residual entry in the tariff item 2202 99 90 and attract GST rate of 18%.

5. Applicable GST rate on Mechanical Sprayer:

5.1 Representations have been received seeking clarification on the scope and applicable GST rate on “mechanical sprayers” of entry No. 195B of the Schedule II to notification No.1/2017- Central Tax (Rate), dated 28.06.2017. The entry No. 195B was inserted *vide* notification No. 6/2018- Central Tax (Rate), dated 25th January, 2018.

5.2 All goods of heading 8424 i.e. [Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines (other than fire extinguishers, whether or not charged)] attracted GST @18% [S.No.325 of Schedule III] till 25th January, 2018. Subsequently, keeping in view various requests/ representations, the GST Council in its 25th meeting recommended 12% GST on mechanical sprayers. Accordingly, *vide* amending notification No. 6/2018- Central Tax (Rate), dated 25th January, 2018, GST at the rate of 12% was prescribed (entry No. 195B I Schedule II of notification No. 1/2017- Central Tax (Rate) dated 28.6.2017) Simultaneously, mechanical sprayers were excluded from the ambit of the said S. No. 325 of Schedule III.

5.3 Accordingly, it is clarified that the S. No. 195B of the Schedule II to notification No. 1/2017- Central Tax (Rate), dated 28.06.2017 covers “mechanical sprayers” of all types whether or not hand operated (like hand operated sprayer, power operated sprayers, battery operated sprayers, foot sprayer, rocker etc.).

6. Clarification regarding taxability of imported stores by the Indian Navy:

6.1 Representation has been received from the Indian Navy seeking clarification on the

taxability of imported stores for use of a ship of Indian Navy.

6.2 Briefly stated, in accordance with letter No. 21/31/63-Cus-IV dated 17 Aug 1966 of the then Department of Revenue and Insurance, the Indian Naval ships were treated as “foreign going vessels” for the purposes of Customs Act, 1962, and the naval personnel serving on board these naval ships were entitled to duty-free supplies of imported stores even when the ships were in Indian harbour. However, in the GST era, no such circular has been issued regarding exemption from IGST on purchase of imported stores by Indian Naval ships. The doubt has arisen as there is a no specific exemption, while there is a specific exemption for the Coast Guard (*vide* S. No. 4 of notification No. 37/2017-Customs dated 30.6.2017). Similar exemption has not been specifically provided for Navy.

6.3 Indian Naval ship stores are exempted from import duty in terms of section 90(1) of the Customs Act, 1962. Further, as per section 90(2), goods “taken on board a ship of the Indian Navy” shall be construed as exported to any place outside India. Also, section 90(1) and 90(3) of the Customs Act, 1962 provides that imported stores for the use of a ship of the Indian Navy and stores supplied free by the Government for the use of the crew of a ship of the Indian Navy in accordance with their conditions of service will be exempted from duty.

6.4 Accordingly, it is clarified that imported stores for use in navy ships are entitled to exemption from GST.

7. Clarification regarding taxability of goods imported under lease:

7.1 Representations have been received seeking clarification on the taxability of goods imported under lease.

7.2 In respect of goods imported on temporary basis, aircrafts, aircraft engines and other aircraft parts imported into India under a transaction covered by item 1(b) or 5(f) of Schedule II of the Central Goods and Service Tax Act, 2017 are exempted from IGST *vide* S. No. 547A of notification No. 50/2017-Customs dated 30.06.2017, subject to condition No. 102, which reads as under :-

The importer, by the execution of bond, in such form and for such sum as may be specified by the Commissioner of Customs, binds himself, -

- (i) *to pay integrated tax leviable under section 5(1) of the IGST Act, 2017 on supply of service covered by item 1(b) or 5 (f) of Schedule II of the Central Goods and Services Act, 2017;*
- (ii) *not to sell or part with the goods, without the prior permission of the Commissioner of Customs of the port of importation;*
- (iii) *to re-export the goods within three months of the expiry of the period for which they were supplied under a transaction covered by item 1(b) or 5 (f) of Schedule II of the*

- (iv) *to pay on demand an amount equal to the integrated tax payable on the said goods but for the exemption under this notification in the event of violation of any of the above conditions.*

7.3 Similarly, rigs and ancillary items imported for oil or gas exploration and production taken on lease by the importer for use after import have also been exempted from IGST *vide* S. No. 557A of the said notification. Subsequently, all goods, vessels, ships (other than motor vehicles) imported under lease, by the importer for use after import, were also exempted from IGST *vide* S. No. 557B of the said notification. Both these entries are subject to the same condition No. 102 of the said notification.

7.4 The intention of S. No. 557 A and 557 B is to exempt from IGST the imports of goods under an arrangement of supply of service covered by item 1(b) or 5(f) of Schedule II of the CGST Act, 2017 so as to avoid double taxation.

7.5 Accordingly, it is hereby clarified that the expression “taken on lease/imported under lease” (in S. No. 557A and 557B respectively of notification No. 50/2017-Customs dated 30.06.2017) covers imports under an arrangement so as to supply services covered by item 1(b) or 5(f) of Schedule II of the CGST Act, 2017 to avoid double taxation. The above clarification holds for such transactions in the past.

7.6 Further, wordings of S. No. 557A and 557B of notification No. 50/2017-Customs dated 30.6.2017, have been aligned with Condition No. 102 of the said notification [*vide* notification No. 34/2019-Customs dated 30.09.2019 w.e. f 01.10.2019] to address the concerns raised.

8. **Applicability of GST rate on parts for the manufacture solar water heater and system:**

81 Representations have been received seeking clarification on applicable GST rate on Solar Evacuated Tubes used in manufacture of solar water heater. While 5% GST rate applies to parts used in manufacture of Solar Power based devices (S.No. 234 of Notification No. 1/2017 -Central tax (Rate) dated 28.06.2017), doubts have been raised in respect of parts of Solar water heaters on the ground that Solar Based Devices are being considered only as devices which run on Solar Electricity.

82 As per entry No 232, solar water heater and system attracts 5% GST. Further, as per S. No. 234 of the notification No. 1/2017-Central Tax (Rate) dated 28.6.2017, solar power-based devices and parts for their manufacture falling under chapter 84, 85 and 94 attract 5% concessional GST. Solar Power based devices function on the energy derived from Sun (in form of electricity or heat). Thus, solar water heater and system would also be covered under S. No 234 as solar power device. Thus, Solar Evacuated Tubes which falls under Chapter 84 and other parts falling

under chapter 84, 85 and 94, used in manufacture of solar water heater and system would be eligible for 5% GST under S. No. 234.

83 Accordingly, it is clarified that parts including Solar Evacuated Tube falling under chapter 84, 85 and 94 for the manufacture of solar water heater and system will attract 5% GST.

9. Applicability of GST on the parts and accessories suitable for use solely or principally with a medical device:

9.1 Representations have been received seeking clarification on applicability of GST on the parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment.

9.2 Briefly stated, medical equipment falling under HS 9018, 9019, 9021 and 9022 attract 12% GST. The imports of parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment, were being assessed at 12% GST by classifying it under heading 9018. However, objection has been raised by Comptroller and Auditor General of India (CAG) on the said practice, suggesting that since such goods were not specifically mentioned in the GST rate notification, they fall under tariff item 9033 00 00 [residual entry] and should be assessed at 18% IGST. In this background, representations have been received from trade and industry, seeking clarification in this matter

9.3 The matter has been examined. As per chapter note 2(b) of the Chapter 90, parts and accessories of the instruments used mainly and principally for the medical instrument of chapter 90 shall be classified with the machine only. Chapter note 2(b) (of Chapter 90) reads as below: -

“2 (b): other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instruments or apparatus, or with a number of machines, instruments or apparatus of the same heading (including a machine, instrument or apparatus of heading 9010, 9013 or 9031) are to be classified with the machines, instruments or apparatus of that kind;”

9.4 Thus, as per chapter note 2(b), parts of ophthalmic equipment suitable for use solely or principally with an ophthalmic equipment should be classified with the ophthalmic equipment only and shall attract 12%.

9.5 In view of the above, it is clarified that 12% IGST would be applicable on the parts and accessories suitable for use solely or principally with a medical device falling under heading 9018, 9019, 9021 or 9022 in terms of chapter note 2 (b).

27. Clarification regarding GST rate on laterals/parts of Sprinklers or Drip Irrigation System [Circular No. 155/11/2021-GST]

Circular No. 155/11/2021-GST New Delhi, 17th June, 2021

Representations have been received seeking clarification regarding GST rate on parts of Sprinklers or Drip Irrigation System, when they are supplied separately (i.e. not along with entire sprinklers or drip irrigation system). This issue was examined in the 43rd meeting of GST Council held on the 28th May, 2021.

2. The GST rate on Sprinklers or Drip Irrigation System along with their laterals/parts are governed by S.No. '195B' under Schedule II of notification No. 1/2017- Central Tax (Rate), dated 28th June, 2017 which has been inserted *vide* notification No.6/2018- Central Tax (Rate), dated 25th January, 2018 and reads as below:

S. No.	Chapter Heading/ Sub-heading/Tariff Item	Description of Goods	CGST rate
195B	8424	Sprinklers; drip irrigation systems including laterals; mechanicalsprayer	6%

3. The matter is examined. The intention of this entry has been to cover laterals (pipes to be used solely with with sprinklers/drip irrigation system) and such parts that are suitable for use solely or principally with 'sprinklers or drip irrigation system', as classifiable under heading 8424 as per Note 2 (b) to Section XVI to the HSN. Hence, laterals/parts to be used solely or principally with sprinklers or drip irrigation system, which are classifiable under heading 8424, would attract a GST of 12%, even if supplied separately. However, any part of general use, which gets classified in a heading other than 8424, in terms of Section Note and Chapter Notes to HSN, shall attract GST as applicable to the respective heading.

28. Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 45th meeting held on 17th September, 2021 [Circular No. 163/19/2021-GST]

Circular No. 163/19/2021-GST New Delhi, 6th October, 2021

Based on the recommendations of the GST Council in its 45th meeting held on 17th September, 2021, at Lucknow, clarification, with reference to GST levy, related to the following are being issued through this circular:

- i. Fresh vs dried fruits and nuts;
- ii. Classification and applicable GST rates on Tamarind seeds;
- iii. Coconut vs Copra;
- iv. Classification and applicable GST rate on Pure *henna* powder and leaves, having no additives;
- v. Scented sweet *supari* and flavored and coated *illaichi*;
- vi. Classification of Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble [DDGS] and other such residues and applicable GST rate;
- vii. GST rates on goods [miscellaneous pharmaceutical products] falling under heading 3006;
- viii. Applicability of GST rate of 12% on all laboratory reagents and other goods falling under heading 3822;
- ix. Requirement of Original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) on each inter-State stock transfer of goods imported at concessional GST rate for petroleum operations;
- x. External batteries sold along with UPS Systems/ Inverter;
- xi. Specified Renewable Energy Projects;
- xii. Fiber Drums, whether corrugated or non-corrugated.

2. The issue-wise clarifications are discussed in detail below.

3. Applicability of GST on fresh and dried fruits and nuts:

3.1 Representations have been received seeking clarification regarding the distinction between fresh and dried fruits and nuts and applicable GST rates.

3.2 At present, fresh nuts (almond, walnut, hazelnut, pistachio etc) falling under heading 0801 and 0802 are exempt from GST, while dried nuts under these headings attract GST at the rate of 5%/ 12%. The general Explanatory Notes to chapter 08 mentions that this chapter covers fruit, nuts intended for human consumption. They may be **fresh (including chilled), frozen** (whether or not previously cooked by steaming or boiling in water or containing added sweetening matter) or **dried (including dehydrated, evaporated or freeze-dried)**. Thus, HS chapter differentiates between fresh, frozen and dried fruits and nuts. Fresh fruit and nuts would thus cover fruit and nuts which are meant to be supplied in the state as plucked. They continue to be fresh even if chilled. However, fruit and nuts do not qualify as fresh, once frozen (cooked or otherwise), or intentionally dried to dehydrate including through sun drying, evaporation or freezing, for supply as dried fruits or nuts. It may be noted that in terms of note 3 to Chapter 8, dried fruits, even if partially re-hydrated, or subject to preservation say by moderate heat treatment, retain the character of dried fruits or dried

nuts.

3.3. Therefore, exemption from GST to fresh fruits and nuts covers only such products which are not frozen or dried in any manner as stated above or otherwise processed. Supply of dried fruits and nuts, falling under heading 0801 and 0802 attract GST at the rate of 5%/12% as specified in the respective rate Schedules.

4. Applicability of GST on tamarind seeds:

4.1 Representations have been received seeking clarification regarding classification and applicable GST rates on tamarind seeds. The dispute is in classification of tamarind seeds between tariff heading 1207 and 1209.

4.2 As per general Explanatory Notes to HS 2017, heading 1209, covering seeds, fruit and spores, of a kind used for sowing, covers tamarind seeds. As per Chapter note 3 to Chapter 12, for the purposes of heading 1209, beet seeds, grass and other herbage seeds, seeds of ornamental flowers, vegetable seeds, seeds of forest trees, seeds of fruit trees, seeds of vetches (other than those of the species *Vicia faba*) or of lupines are to be regarded as “seeds of a kind used for sowing”. Thus, tamarind seeds, even if used for any purpose other than sowing, is liable to be classified under heading 1209 and hitherto attracted nil GST rate, irrespective of its use (for the period 01.07.2017 to 30.09.2021).

4.3 The GST council in its 45th meeting recommended GST rate on seeds, falling under heading 1209, meant for any use other than sowing to 5% (S. No. 71A of schedule I of notification No. 1/2017- Central Tax (Rate) dated 28.06.2017) and Nil rate would apply only to seeds for this heading if used for sowing purposes (S. No. 86 of schedule of notification No. 2/2017- Central Tax (Rate) dated 28.06.2017). Hence, with effect from 1.10.2021, tamarind and other seeds falling under heading 1209, (i.e. including tamarind seeds), if not supplied as seed for sowing, would attract GST at the rate of 5%.

5. Clarification of definition of Copra:

5.1. Representations have been received seeking clarification regarding the definition of *Copra* and applicable GST rates.

5.2 As per Explanatory Notes to HS (2017 edition) to heading 1203, *Copra* is dried flesh of coconut generally used for the extraction of coconut oil. Coconut kernel turns into *copra*, when it separates from the shell skin, while still being inside the shell. The whole unbroken kernel could be taken out of shell only when it converts to *copra*. Once taken out of shell, *copra* could be supplied either whole or broken.

5.3. As per the Explanatory Notes to HS, the heading 0801 covers coconut fresh or dried but excludes *Copra*. Thus, exemption available to Coconut, fresh or dried, whether or not shelled or peeled, vide entry at S. No. 47 of notification No. 2/2017- Central Tax (Rate) dated 28.6.2017, is not available to *Copra*. Accordingly, *Copra*, classified under heading 1203, attracts GST rate of 5% vide entry at S. No. 66 of Schedule I of 1/2017-Central Taxes (Rate) dated 28.06.2017, irrespective of use.

6. Applicability of GST on pure henna powder and leaves:

6.1 Representations have been received seeking clarification regarding classification and applicable GST rates on henna powder and henna leaves.

6.2 As per the Explanatory Notes to HS 2017, heading 1404 is vegetable products not elsewhere specified or included. Further, as per the said Explanatory Notes, heading 1404

includes raw vegetable materials of a kind used primarily in dyeing or tanning. Such products are used primarily in dyeing or tanning either directly or in preparation of dyeing or tanning extracts. The material may be untreated, cleaned, dried, ground or powdered (whether or not compressed).

6.3 Accordingly, it is clarified that pure *henna* powder and *henna* leaves, having no additives, is classifiable under tariff item 1404 90 90 and shall attract GST rate of 5% (S. No. 78 of schedule I of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017).

6.4. Further, the GST rate on *mehndi* paste in cones falling under heading 1404 and 3305 shall be 5% (S. No. 78A of schedule I of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017).

7. Applicability of GST on scented sweet *supari* & flavored and coated *illaichi*:

7.1 Representations have been received seeking clarification regarding classification and applicable GST rates on flavored and coated *illaichi*, and scented sweet *supari*.

7.2 Scented sweet *supari* falls under tariff item 2106 90 30 as “Betel nut product” known as “*Supari*” and attracts GST rate of 18% vide entry at S. No. 23 of Schedule III of notification No. 1/2017-Central Tax (Rate) dated 28.6.2017.

7.3 Flavored and coated *illaichi* generally consists of Cardamom Seeds, Aromatic Spices, Silver Leaf, Saffron, Artificial Sweeteners. It is distinct from *illaichi* or cardamom (which falls under heading 0908). It is clarified that flavored and coated *illaichi* is a value added product and falls under sub-heading 2106. It accordingly attract GST at the rate of 18% (S. No. 23 of schedule III of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017).

8. Applicability of GST on Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble [DDGS] and other such residues:

Representations have been received seeking clarification regarding classification and applicable GST rates on Brewers' spent grain (BSG), Dried distillers' grains with soluble [DDGS] and other such residues of starch manufacture and similar residues beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets.

8.1 As per the Explanatory Notes to the HSN, heading 2303 includes residues of starch manufacture and similar residues (from maize (corn), rice, potatoes, etc.); beet- pulp; bagasse; other waste products of sugar manufacture; brewing or distilling dregs and waste, which comprises in particular - dregs of cereals obtained in the manufacture of beer and consisting of exhausted grains remaining after the wort has been drawn off; malts sprouts separated from the malted grain during the kilning process; spent hops; Dregs resulting from the distillation of spirits from grain, seeds, potatoes, etc; beet pulp wash (residues from the distillation of beet molasses). All these products remain classified in the heading whether presented in wet or dry.

8.2 Thus, Brewers' spent grain (BSG), Dried distillers' grains with soluble [DDGS] and other such residues are classifiable under heading 2303, attracting GST at the rate of 5% (S. No. 104 of schedule I of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017).

9. Scope of GST rate on all pharmaceutical goods falling under heading 3006.

9.1 Entry at S. No. 65 of Schedule II of notification No. 1/2017-Central Tax (Rate) dated 28.6.2017, reads as “*Pharmaceutical goods specified in Note 4 to this Chapter [i.e. Sterile surgical catgut, similar sterile suture materials (including sterile absorbable surgical or*

dental yarns) and sterile tissue adhesives for surgical wound closure; sterile laminaria and sterile laminaria tents; sterile absorbable surgical or dental haemostatics; sterile surgical or dental adhesion barriers, whether or not absorbable; Waste pharmaceuticals] [other than contraceptives]”

9.2 S. No. 65 of Second Schedule of Notification 1/2017- Central Tax (Rate) dated 28.6.2017 refers to the note 4 to Chapter 30 of the First schedule of the Customs Tariff Act, 1975 while mentioning an illustrative list. Certain representations were received seeking clarification on the applicable rate of goods falling under heading 3006 that are not specifically mentioned in the Entry at S. No. 65 of Schedule II of notification No. 1/2017- Central Tax (Rate) dated 28.6.2017.

9.3 Note 4 to Chapter 30 of the First schedule of the Custom Tariff Act, 1975 reads as follows:

“(a) sterile surgical catgut, similar sterile suture materials (including sterile absorbable surgical or dental yarns) and sterile tissue adhesives for surgical wound closure;

(b) sterile laminaria and sterile laminaria tents;

(c) sterile absorbable surgical or dental haemostatics sterile surgical or dental adhesion barriers, whether or not absorbable;

(d) opacifying preparations for X-ray examinations and diagnostic reagents designed to be administered to the patient, being unmixed products put up in measured doses or products consisting of two or more ingredients which have been mixed together for such uses;

(e) blood-grouping reagents;

(f) dental cements and other dental fillings; bone reconstruction cements;

(g) first-aid boxes and kits;

(h) chemical contraceptive preparations based on hormones, on other products of heading 2937 or on spermicides;

(i) gel preparations designed to be used in human or veterinary medicine as a lubricant for parts of the body for surgical operations or physical examinations or as a coupling agent between the body and medical instruments; and

(j) waste pharmaceuticals, that is, pharmaceutical products which are unfit for their original intended purpose due to, for example, expiry of shelf-life.

(k) appliances identifiable for ostomy use, that is colostomy, ileostomy and urostomy pouches cut to shape and their adhesive wafers or faceplates.”

9.4 Thus, it is clarified that said entry 65 covers all goods as specified in Chapter Note 4 and Chapter Note 4 in turn covers all goods covered under Heading 3006. Therefore, said entry 65 covers all goods falling under heading 3006, irrespective of the fact that such goods are specifically mentioned in said entry. Therefore, all goods falling under heading 3006 attract GST rate of 12% under entry 65 in the 12% rate schedule.

10. All laboratory reagents and other goods falling under heading 3822:

10.1 Entry at S. No. 80 of Schedule II of notification No.1/2017- Integrated Tax (Rate)

dated 28.6.2017 prescribes GST rate of 12% for “All diagnostic kits and reagents”.

10.2. Representations have been received whether the benefit of concessional rate of 12% would be available to laboratory agents and other goods falling under heading 3822.

10.3 Heading 3822 covers “Diagnostic or Laboratory Reagents, Certified Reference Materials etc.”.

10.4 The issue was placed before the GST Council and on its recommendations, it is clarified that the intention of this entry was to prescribe GST rate of 12% to all goods, whether diagnostic or laboratory reagents, falling under heading 3822.

10.5 It is accordingly clarified that concessional GST rate of 12% is applicable on all goods falling under heading 3822, vide Entry at S. No. 80 of Schedule II of notification No.1/2017-Integrated Tax (Rate) dated 28.6.2017.

11. Requirement of Original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) on each inter-State stock transfer of goods imported at concessional GST rate for petroleum operations

11.1 Notification No. 3/2017-Central Tax (Rate) prescribes concessional rate of 5% for specified goods which are used in connection with specified petroleum operations. Condition 1 (d) in notification No. 03/2017-Central Tax dated 28.06.2017 prescribes that “*whenever goods so supplied are transferred to other licensee or sub-contractor a certificate from Directorate General of Hydrocarbons (DGH) is to be produced that the goods may be transferred to the transferee*”.

11.2. As per Section 7 read with Schedule-I of the CGST Act 2017, inter-state stock transfer between distinct persons (establishment of same person located in two different states) is considered as ‘supply’ of goods.

11.3. Representations have been received seeking clarification whether the original/ import Essentiality certificate can be used for such inter-state stock transfers or a fresh Essentiality certificate would be required for each inter-state stock transfer as it is being treated as supply subject to IGST.

11.4 GST Council deliberated upon this issue and a decision was taken that the original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) is sufficient and there is no need for taking a certificate every time on inter-state movement of goods within the same company / stock transfer so long as the goods are the same as those imported by the company at concessional rate.

11.5. The importer is required to maintain records and should be able to establish nexus between the stock transfer of goods and the description in the essentiality certificate.

12. GST rates applicable on External batteries sold along with UPS Systems/ Inverter

12.1 References have been received seeking clarification about whether, ‘UPS Systems/inverter sold along with batteries as integral part’ are classified under heading 8507 at 28% GST or under heading 8504 at 18% GST.

12.2 The matter has been examined and it is observed that even if the UPS/inverter and external battery are sold on the same invoice, their price are separately known, and they are two separately identifiable items. Thus, this constitutes supply of two distinctly identifiable items on one invoice. Therefore, it is clarified that in such supplies, UPS/ inverter would

attract GST rate of 18% under heading 8504, while external batteries would attract the GST rate as applicable to it under heading 8507 (28% for all batteries except lithium-ion battery).

13. Applicability of GST rates on Solar PV Power Projects

13.1 Representations have been received seeking clarification regarding the GST rates applicable on Solar PV Power Projects on or before 1st January, 2019. The issue seems to have arisen in the context of Notification No.24/2018- Central Tax (Rate), dated 31st December, 2018. An explanation was inserted vide the said notification that GST on specified Renewable Energy Projects can be paid in terms of the 70:30 ratio for goods and services, respectively, with effect from 1st January, 2019. The request has been that same ratio (for deemed value) may be applied in respect of supplies made before 1.1.2019.

13.2 As per this explanation, if the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017, the value of supply of goods for the purposes of this entry shall be deemed as seventy per cent. of the gross consideration charged for all such supplies, and the remaining thirty per cent. of the gross consideration charged shall be deemed as value of the said taxable service. This mechanism for valuation of supply was recommended by the Council considering that it adequately represented the value of goods and services involved in the supply.

The GST Council has now decided to clarify that GST on such specified Renewable Energy Projects can be paid in terms of the 70:30 ratio for goods and services, respectively, for the period of 1st July, 2017 to 31st December, 2018, in the same manner as has been prescribed for the period on or after 1st January, 2019, as per the explanation in the Notification No.24/2018 dated 31st December, 2018. However, it is specified that, no refunds will be granted if GST already paid is more than the amount determined using this mechanism.

14. Applicability of GST rates on Fibre Drums, whether corrugated or non-corrugated

14.1 Hitherto, corrugated boxes and cartons, falling under heading 4819 attracted GST at the rate of 12% (entry 122 of 12% rate schedule), while other cartons falling under this heading attracted GST at the rate of 18%. Disputes have arisen as regards applicable GST on fibre drums, which is partially corrugated (as to whether it is to be treated as corrugated or otherwise). This dispute gets resolved on account of the recommendation of the GST Council, in its 45th meeting, to prescribe a uniform GST rate of 18% on all goods classifiable under heading 4819 (with effect from 1st October, 2021 under S. No. 153A of Schedule III of notification No.1/2017-Central Tax (Rate) dated 28.6.2017).

14.2 For the period prior to 1.10.2021, the Council upon taking note of the fact that there was an ambiguity regarding the GST rates applicable on a Fibre Drums, because of its peculiar construction (partially corrugated), has decided that supplies of such Fibre Drums even if made at 12% GST (during the period from 1.7.2017 to 30.9.2021), would be treated as fully GST-paid. Therefore, no action for recovery of differential tax (over and above 12% already paid) would arise. However, as this decision has only been taken to regularize the past practice in view of certain ambiguity, as detailed in para 14.1, no refund of GST already paid shall be allowed if already paid at 18%.

29. Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 47th meeting held on 28th - 29th June, 2022 at Chandigarh [Circular No. 179/11/2022-GST]

Circular No. 179/11/2022
New Delhi, 3rd August, 2022

Based on the recommendations of the GST Council in its 47th meeting held on 28th- 29th June at Chandigarh, clarifications, with reference to GST levy, related to the following are being issued through this circular:

2. **Electric vehicles whether or not fitted with a battery pack, attract GST rate of 5%:**

- 2.1. Representations have been received seeking clarification regarding the applicable rate of GST on electrically operated vehicle without any battery fitted to it.
- 2.2. The explanation of 'Electrically operated vehicles' in entry 242A of Schedule I of notification No. 1/2017-Central Tax (Rate) reads as: 'Electrically operated vehicles which run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicles and shall include E-bicycles.'
- 2.3. As is evident from the explanation above, electrically operated vehicle including three wheeled electric vehicle means vehicle that runs **solely** on electrical energy derived from an external source or from electrical batteries. Therefore, the fitting of batteries cannot be considered as a concomitant factor for defining a vehicle as an electrically operated electric vehicle.
- 2.4. It is also pertinent to state that the WCO's HSN Explanatory notes have also not considered batteries to be a component, whose absence changes the essential character of an incomplete, unfinished or unassembled vehicle.
- 2.5. Also, the HSN explanatory notes for Chapter 87 have clearly stated that Motor Chassis fitted with cabs i.e. the chassis fitted with cabin body falls under 87.02 to 87.04 and not in heading 87.06
- 2.6. In view of the above, it is clarified that electrically operated vehicle is to be classified under HSN 8703 even if the battery is not fitted to such vehicle at the time of supply and thereby attract GST at the rate of 5% in terms of entry 242A of Schedule I of notification No. 1/2017-Central Tax (Rate).

3. **Stones otherwise covered in S. No. 123 of Schedule-I (such as Napa stones), which are not mirror polished, are eligible for concessional rate under said entry:**

- 3.1. Representations have been received seeking clarification regarding the applicable GST rates on building stones, in particular Napa Stones, which are ready to use and polished in ways other than mirror-polished.
- 3.2. Napa Stone is a variety of dimensional limestone, which is a brittle stone and cannot be subject to extensive mirror polishing. Currently, S. No. 123 of Schedule-I prescribes GST rate of 5% for 'Ecaussine and other calcareous monumental or building stone; alabaster [other than marble and travertine], other than mirror polished stone which is ready to use.' However, being brittle in nature, stones like Napa Stone, even though ready for use, are not subject to extensive polishing. Therefore, such minor polished

stones do not qualify as mirror polished stones.

3.3. Therefore, it is clarified that S. No. 123 in schedule-I to the notification No. 1/2017-Central Tax (rate) dated 28.06.2017 covers minor polished stones.

4. Mangoes under CTH 0804 including mango pulp, but other than fresh mangoes and sliced, dried mangoes, attract GST at 12% rate:

4.1. Representations have been received seeking clarification regarding the applicable GST rate on different forms of Mangoes including Mango Pulp.

4.2. On the basis of the recommendation of the GST Council in its 22nd Meeting, the GST rate on 'Mangoes sliced, dried', falling under heading 0804, was reduced from 12% to 5% [S. No. 30A of Schedule I of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017]. However, the GST rate on all forms of dried mangoes (other than sliced and dried mangoes), falling under heading 0804, including mango pulp, was always meant to be at the rate of 12%.

4.3. Accordingly, it is hereby clarified that mangoes, fresh falling under heading 0804 are exempt; Mangoes, sliced and dried, falling under 0804 are chargeable to a concessional rate of 5%; while all other forms of dried mango, including Mango pulp, attract GST at the rate of 12%. To bring absolute clarity, the relevant entry at S. No. 16 of Schedule-II of notification no. 1/2017-Central Tax (Rate), dated 28th June, 2017, has been amended *vide* notification No. 6/2022-Central Tax (Rate), dated the 13th July, 2022.

4.4. Fresh mangoes, falling under heading 0804, continue to remain exempt from GST [S. No. 51 of notification No. 2/2017-Central Tax (Rate), dated the 28th June, 2017].

5. Treated sewage water attracts Nil rate of GST:

5.1. Representations have been received seeking clarification regarding the applicable GST rate on treated sewage water. Treated sewage water was not meant to be construed as falling under "purified" water for the purpose of levy of GST.

5.2. In general, Water, falling under heading 2201, with certain specified exclusions, is exempt from GST *vide* entry at S. No. 99 of notification No. 2/2017-Central Tax (Rate), dated the 28th June, 2017.

5.3. Accordingly, it is hereby clarified that supply of treated sewage water, falling under heading 2201, is exempt under GST. Further, to clarify the issue, the word 'purified' is being omitted from the above-mentioned entry *vide* notification No. 7/2022-Central Tax (Rate), dated the 13th July, 2022.

6. Nicotine Polacrilex Gum attracts a GST rate of 18%:

6.1. Representations have been received seeking clarification regarding the classification and applicable GST rate on Nicotine Polacrilex gum.

6.2. The WCO 2022 HS Codes has inter alia introduced a new entry 2404 91 00 comprising of products for oral application containing nicotine and intended to assist tobacco use cessation with effect from 01.01.2022. Accordingly, a technical change, without any consequential rate change, has been made *vide* notification No. 18/2021 –

Central Tax (Rate), dated the 28th December, 2021, wherein S. No. 26B in Schedule III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017, has been inserted to include products for oral application containing nicotine and intended to assist in cessation of use of tobacco, and falling under tariff item 2404 91 00. The same is supplemented by the HS Explanatory notes 2022 which states that heading 2404 includes nicotine containing products for recreational use, as well as nicotine replacement therapy (NRT) products intended to assist tobacco use cessation, which are taken as part of a nicotine intake reduction programme in order to lessen the human body's dependence on this substance.

6.3. Accordingly, it is hereby clarified that the Nicotine Polacrilex gum which is commonly applied orally and is intended to assist tobacco use cessation is appropriately classifiable under tariff item 2404 91 00 with applicable GST rate of 18% [Sl. No. 26B in Schedule III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017].

7. Fly ash bricks and aggregate - condition of 90% fly ash content applied only to fly ash aggregate, and not fly ash bricks:

7.1. Representations have been received seeking clarification regarding the applicable rate on the fly ash bricks and fly ash aggregates.

7.2. Hitherto, as per entry at S. No. 176B of the Schedule II the items of description "Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks" attracts a GST rate of 12%. Confusion has arisen about the applicability of 90 per cent. condition on fly ash aggregates and fly ash bricks. As per the recommendations of the GST Council in the 23rd Meeting, the condition of 90% or more fly ash content was applicable only for fly ash aggregate.

7.3. Therefore, it is clarified that the condition of 90 per cent. or more fly ash content applied only to Fly Ash Aggregates and not to fly ash bricks and fly ash blocks. Further, with effect from 18th July, 2022 the condition is omitted from the description.

8. Applicability of GST on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi:

8.1. Representations have been received seeking clarification regarding the applicable GST rate on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi.

8.2. The by-products of milling of pulses/ dal such as Chilka, Khanda and Churi are appropriately classifiable under heading 2302 that consists of goods having description as bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants.

8.3. The applicable GST rate on goods falling under heading 2302 is detailed in the Table below:

Entry and notification No.	Description	GST Rate
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S. No. 102 of notification No. 2/2017-Central Tax (Rate), dated the 28 th June, 2017	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake[other than rice bran]	Nil
S. No. 103A of Schedule-I of notification No. 1/2017-Central Tax (Rate), dated 28 th June, 2017	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants [other than aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and husk of pulses, concentrates and additives, wheat bran and de-oiled cake]	5%
S. No. 103B of Schedule-I of notification No. 1/2017-Central Tax (Rate), dated 28 th June, 2017	Rice bran (other than de-oiled rice bran)	5%

- 8.4. The dispute in applicable GST rate revolves around the central argument as to whether the above-mentioned by-products are meant for direct consumption as cattle feed and therefore attract exemption under S. No. 102 of notification No. 2/2017-Central Tax (Rate) dated 28th June, 2017 or are otherwise not meant for direct consumption and thus covered under S. No. 103A of notification No. 1/2017- Central Tax (Rate) dated 28th June, 2017 attracting a GST rate of 5%.
- 8.5. While milling of pulses/ dal, a wide range of by-products such as chilka, khanda, churi, among others, are obtained which are preferred as cattle feed by dairy industry for better palatability and higher nutritive value. The mentioned by-products are required to go through varying degrees of processing in order to customize the color, size, aroma, nutrition, purity, etc., of the cattle feed so produced, depending upon the dietary and nutritional requirement of the cattle and the budget availability of the customer(s). Further, as per the Indian Standards 2052:2009 -Compounded Feeds for Cattle — Specification, issued by the Bureau of Indian Standards, Ministry of Consumer Affairs, Food & Public Distribution, Government of India, grain by-products have been categorized as one of the ingredients of the compounded cattle feed.
- 8.6. The GST Council examined the issue and recommended that a clarification be issued in this regard. It also recommended that in view of the prevailing multiple interpretations and genuine doubts regarding the applicability of GST, the issue for past periods may be regularized on as is basis.

8.7. Accordingly, it is hereby clarified that the subject goods which inter alia is used as cattle feed ingredient are appropriately classifiable under heading 2302 and attract GST at the rate of 5% vide S. No. 103A of Schedule-I of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017 and that for the past, the matter would be regularized on as is basis as mentioned in para 8.6.

30. Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 48th meeting held on 17th December, 2022 [Circular No. 189/01/2023-GST]

Circular No. 189/01/2023 New Delhi, 13th January, 2023

Based on the recommendations of the GST Council in its 48th meeting held on 17th December, 2022, clarifications, with reference to GST levy, related to the following are being issued through this circular:

2. Rab -classifiable under Tariff heading 1702:

2.1 Representation has been received seeking clarification regarding the classification of "Rab". It has been stated that under the U.P. Rab (Movement Control Order), 1967, "Rab" means '*massecuite prepared by concentrating sugarcane juice on open pan furnaces, and includes Rab Galawat and Rab Salawat, but does not include khandsari molasses or lauta gur.*' Although, a product of sugarcane, Rab exists in semi-solid/liquid form, and is thus not covered under heading 1701. The Hon'ble Supreme Court in its order in *Krishi Utpadan Mandi Samiti vs. M/s Shankar Industries and others* [1993 SCR (1)1037] has distinguished Rab from Molasses. Thus, Rab being distinguishable from molasses is not classifiable under heading 1703.

2.2 Accordingly, it is hereby clarified that Rab is appropriately classifiable under heading 1702 attracting GST rate of 18% (S. No. 11 in Schedule III of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017).

3. Applicability of GST on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi/Chuni:

3.1 Representations have been received seeking clarification regarding the applicable GST rate on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi/Chuni.

3.2 The GST council in its 48th meeting has recommended to fully exempt the supply of

subject goods, irrespective of its end use. Hence, with effect from the 1st January, 2023, the

said goods shall be exempt under GST *vide* S. No. 102C of schedule of notification No. 2/2017-Central Tax (Rate), dated 28.06.2017.

3.3 Further, as per recommendation of the GST Council, in view of genuine doubts regarding the applicability of GST on subject goods, matters that arose during the intervening period are hereby regularized on "as is" basis from the date of issuance of Circular No. 179/11/2022-GST, dated the 3rd August, 2022, till the date of coming into force of the above-said S. No. 102C and the entries relating thereto. This is in addition to the matter regularized on as is basis *vide* para 8.6 of the said Circular.

4. Clarification regarding ‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’:

4.1 Representations have been received seeking clarification regarding the applicable six-digit HS code for ‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’.

4.2 On the basis of the recommendation of the GST council in its 45th meeting, a specific entry has been created in notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017 and notification No. 1/2017- Compensation Cess (Rate), dated the 28th June, 2017, *vide* S. No. 12B in Schedule IV and S. No. 4B in Schedule respectively, with effect from the 1st October, 2021, for goods with description ‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’.

4.3 It is hereby clarified that the applicable six-digit HS code for the aforesaid goods with description ‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’ is HS 2202 99. The said goods attract GST at the rate of 28% and Compensation Cess at the rate of 12%. The S. Nos. 12B and 4B mentioned in Para 4.2 cover all such carbonated beverages that contain carbon dioxide, irrespective of whether the carbon dioxide is added as a preservative, additive, etc.

4.4 In order to bring absolute clarity, an exclusion for the above-said goods has been provided in the entry at S. No. 48 of Schedule-II of notification No. 1/2017-Central Tax (Rate), dated 28th June, 2017, *vide* notification No. 12/2022-Central Tax (Rate), dated the 30th December, 2022.

5. Applicability of GST on Snack pellets manufactured through extrusion process (such as ‘fryums’):

5.1 Representations have been received seeking clarification regarding classification and applicable GST rate on snack pellets manufactured through the process of extrusion (such as ‘fryums’).

5.2 It is hereby clarified that the snack pellets (such as ‘fryums’), which are manufactured through the process of extrusion, are appropriately classifiable under tariff item 1905 90 30, which covers goods with description ‘Extruded or expanded products, savoury or salted’, and thereby attract GST at the rate of 18% *vide* S. No. 16 of Schedule-III of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017.

6. Applicability of Compensation cess on Sports Utility Vehicles (SUVs):

6.1 Representations have been received seeking clarification about the specifications of motor vehicles, which attract compensation cess at the rate of 22% *vide* entry at S. No. 52B of notification No. 01/2017 Compensation Cess (Rate), dated 28th June, 2017.

6.2 In this regard, it is clarified that Compensation Cess at the rate of 22% is applicable on Motor vehicles, falling under heading 8703, which satisfy all four specifications, namely: - these are popularly known as SUVs; the engine capacity exceeds 1,500 cc; the length exceeds 4,000 mm; and the ground clearance is 170 mm and above.

6.3 This clarification is confined to and is applicable only to Sports Utility Vehicles (SUVs).

7. Applicability of IGST rate on goods specified under notification No. 3/2017-Integrated Tax (Rate):

7.1 Representations have been received expressing doubts regarding the applicable IGST rate on goods specified in the list annexed to notification No. 3/2017-Integrated Tax (Rate), dated the 28th June, 2017.

7.2 On the basis of the recommendation of the GST Council in its 47th Meeting, held in June 2022, the IGST rate has been increased from 5% to 12% on goods, falling under any Chapter, specified in the list annexed to the notification No. 3/2017-Integrated Tax (Rate), dated the 28th June, 2017, when imported for the specified purpose (like Petroleum operations/Coal bed methane operations) and subject to the relevant conditions prescribed in the said notification. However, some goods specified in the list annexed to notification No. 3/2017-Integrated Tax (Rate), dated the 28th June, 2017, are also eligible for a lower schedule rate of 5% by virtue of their entry in Schedule I of notification No. 1/2017-Integrated Tax (Rate), dated the 28th June, 2017.

7.3 Accordingly, it is hereby clarified that on goods specified in the list annexed to the notification No. 3/2017-Integrated Tax (Rate), dated the 28th June, 2017, which are eligible for IGST rate of 12% under the said notification and are also eligible for the benefit of lower rate under Schedule I of the notification No. 1/2017-Integrated Tax (Rate), dated the 28th June, 2017 or any other IGST rate notification, the importer can claim the benefit of the lower rate.

31. Clarification regarding GST rate and classification of 'Rab' based on the recommendation of the GST Council in its 49th meeting held on 18th February, 2023 [Circular No. 191/03/2023-GST]

**Circular No. 191/03/2023
New Delhi, 27th March, 2023**

Based on the recommendation of the GST council in its 49th meeting, held on 18th February, 2023, with effect from the 1st March, 2023, 5% GST rate has been notified on Rab, when sold in pre- packaged and labelled, and Nil GST, when sold in other than pre- packaged and labelled.

2. Further, as per the recommendation of the GST Council in the above-said meeting, in view of the prevailing divergent interpretations and genuine doubts regarding the applicability of GST rate on Rab, the issue for past period is hereby regularized on "as is" basis.

32. Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023 [Circular No. 200/12/2023-GST]

**Circular No. 200/12/2023
New Delhi, 1st August, 2023**

Based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023, clarifications with reference to GST levy related to the following items are being issued through this circular:

- i. Un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion;
- ii. Fish Soluble Paste;
- iii. Desiccated coconut;
- iv. Biomass briquettes;
- v. Imitation zari thread or yarn known by any name in trade parlance;
- vi. Supply of raw cotton by agriculturist to cooperatives;
- vii. Plates, cups made from areca leaves
- viii. Goods falling under HSN heading 9021

2. Applicability of GST on un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion:

2.1 In the 48th meeting of the GST Council, it was clarified that the snack pellets (such as 'fryums'), which are manufactured through the process of extrusion, are appropriately classifiable under tariff item 1905 90 30, which covers goods with description 'Extruded or expanded products, savoury or salted', and thereby attract GST at the rate of 18% vide S. No. 16 of Schedule-III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017.

2.2 In view of the recommendation of the GST Council in the 50th meeting, supply of un-cooked/un-fried extruded snack pellets, by whatever name called, falling under CTH 1905 will attract GST rate of 5% vide S. No. 99B of Schedule I of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017 with effect from 27th July,2023. Extruded snack pellets in ready- to-eat form will continue to attract 18% GST under S. No. 16 of Schedule III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017.

2.2 Further, in view of the prevailing genuine doubts regarding the applicability of GST rate on the un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, the issue for past period upto 27.7.2023 is hereby regularized on "as is" basis.

3. Applicability of GST on Fish Soluble Paste:

3.1 Fish soluble paste attracted 18% under the residual entry S No. 453 of Schedule III of notificationno.1/2017-CentralTax (Rate),dated the 28thJune,2017.As per recommendation of the GST Council, GST on fish soluble paste, falling under CTH 2309, has been reduced to 5%. Accordingly, the rate has been notified vide S. No. 108A with effect from 27th July,2023.

3.2 Further, in view of the prevailing genuine doubts regarding the applicability of GST rate on fish soluble paste, the issue for past period upto 27.7.2023 is hereby regularized on "as is" basis.

4. Desiccated coconut- Regularisation of the issue for past period from 01.07.2017 upto and inclusive of 27.07.2017:

As per recommendation of the GST Council, in view of the prevailing genuine interpretational issues regarding the applicability of GST rate on the desiccated coconut, falling under CTH 0801, the issue for past period from 01.07.2017 up to and inclusive of 27.07.2017 is hereby regularized on "as is" basis.

5. Biomass briquettes- Regularisation of the issue for past period from 01.07.2017 upto and inclusive of 12.10.2017:

As per recommendation of the GST Council, in view of the prevailing genuine interpretational issues regarding the applicability of GST rate on the Biomass briquettes,

falling under any chapter, the issue for past period from 01.07.2017 up to and inclusive of 12.10.2017 is hereby regularized on “as is” basis.

6. Supply of raw cotton by agriculturist to cooperatives:

6.1 As per recommendation of the GST Council, it is hereby clarified that supply of raw cotton, including kala cotton, from agriculturists to cooperatives is a taxable supply and such supply of raw cotton by agriculturist to the cooperatives (being a registered person) attracts 5% GST on reverse charge basis under notification no. 43/2017-Central Tax (Rate) dated 14th November, 2017.

6.2 In view of prevailing genuine doubts, the issue for the past periods prior to issue of this clarification is hereby regularized on “as is basis”.

7. GST rate on Imitation Zari thread or yarn known by any name in trade parlance:

7.1 In the 15th Council meeting, the Council agreed to tax embroidery or zari articles i.e., imi, zari, kasab, saima, dabka, chumki, gota, sitara, naqsi, kora, glass beads, badla, gizai at the rate of 5%. Based on the recommendation of the 28th GST Council, it was clarified that imitation zari thread or yarn known as “Kasab” or by any other name in trade parlance, would attract a uniform GST rate of 12% under tariff heading 5605.

7.2 As per the recommendation of the GST Council in its 50th meeting, GST on imitation zari thread or yarn known by any name in trade parlance has been reduced from 12% to 5%. Accordingly, the rate has been notified vide S. No. 218AA with effect from 27th July, 2023.

7.2. In view of the confusion in the trade regarding the applicability of GST rate on these products, the issue for past period upto 27.7.2023 is hereby regularized on “as is” basis.

8. Plates, cups made from areca leaves

As per the recommendation of the GST Council, issues relating to GST on plates and cups made from areca leaves are hereby regularized on “as is basis” for the period prior to 01.10.2019.

9. GST rate on goods falling under HSN 9021

9.1 Representations have been received seeking clarification regarding the GST rates applicable on trauma, spine and arthroplasty implants falling under HSN heading 9021 for the period before 18.07.2022 stating that there are interpretational issues due to the duality of rates on similar items leading to ambiguity. The issue has arisen as prior to 18.07.2022 there existed two rates on the goods falling under HSN heading 9021 as per S. No. 257 of schedule I and S. No. 221 of schedule II of notification no. 01/2017-CT (Rate) dated 28.06.2017.

9.2 The issue was examined by GST Council in its 47th meeting and as per its recommendations, a single uniform rate of 5% was prescribed for such goods (except hearing aid, which continued to attract Nil under S.N. 142 of 02/2017-CT(Rate)) falling under HSN heading 9021 with effect from 18.07.2022.

9.3 As per recommendations of the GST council in its 50th Meeting, it is hereby clarified that the GST rate on all such goods falling under heading 9021 would attract a GST rate of 5% and in view of prevailing genuine doubts, the issue for the past periods is hereby regularized on “as is basis”. However, it is clarified that no refunds will be granted in cases where GST has already been paid at higher rate of 12%.

10. It is further clarified that no refunds will be granted where GST has already been paid in any of the above cases.

33. Clarification regarding GST rate on imitation zari thread or yarn based on the recommendation of the GST Council in its 52nd meeting held on 7th October, 2023 [Circular No. 205/17/2023-GST]

**Circular No. 205/17/2023
New Delhi, 31st October, 2023**

The GST Council in its 50th meeting had recommended reduction of GST rate to 5% on imitation zari thread or yarn known by any name in trade parlance, following which Sl. No. 218AA had been inserted in Schedule I of notification no. 1/2017- Central Tax (Rate) dated 28.6.2017.

2. Doubts have been raised whether metal coated plastic film converted to metallised yarn and twisted with nylon, cotton, polyester or any other yarn to make imitation zari thread is covered under Sl No. 218AA of Schedule I covering imitation zari thread or yarn, and attracting 5% GST, or under Sl No. 137 of Schedule II covering other metallised yarn attracting 12% GST. As per HS Explanatory Notes, the heading 5605 covers – (1) yarn consisting of any textile material (including monofilament, strip and the like and paper yarn) combined with metal thread or strip, whether obtained by a process of twisting, cabling or by gimping, whatever the proportion of the metal present (2) yarn of any textile material (including monofilament, strip and the like and paper yarn) covered with metal by any other process including yarn covered with metal by electro-deposition. The heading also covers products consisting of a core of metal foil (generally of aluminum) or of a core of plastic film coated with metal dust, sandwiched by means of an adhesive between two layers of plastic film.

3. In light of the above, the GST Council has recommended to clarify that imitation zari thread or yarn made from metallised polyester film/ plastic film falling under HS 5605 are covered by Sl No. 218AA of Schedule I attracting 5% GST.

The GST Council has also recommended that no refund will be permitted on polyester film (metallised)/plastic film on account of inversion of tax rate. Requisite changes have been made in notification no. 5/2017-Central Tax (Rate) vide Notification no 20/2023-Central Tax (Rate) dated 19.10.2023.