

GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF TAXES, ASSAM :: KAR BHAWAN
DISPUR, GUWAHATI-6

CIRCULAR NO. 90/2020-GST

Dated Dispur the 21st April, 2020.

Subject: Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws-reg.

No. CT/GST-15/2017/353.— Circular No. CT/GST-15/2017/341 dated 16.04.2020 (No. 89/2020-GST) had been issued to clarify doubts regarding relief measures taken by the Government for facilitating taxpayers in meeting the compliance requirements under various provisions of the Assam Goods and Services Tax Act, 2017 (hereinafter referred to as the “Assam GST Act”) on account of the measures taken to prevent the spread of Novel Corona Virus (COVID-19). It has been brought to the notice of the Commissioner of State tax that certain challenges are being faced by taxpayers in adhering to the compliance requirements under various other provisions of the Assam GST Act which also need to be clarified.

2. The issues raised have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Commissioner of State tax, in exercise of its powers conferred under section 168 of the Assam GST Act hereby clarifies as under:

| Sl. No. | Issue | Clarification |
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| 1. | An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns ? | In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently <u>and for which invoice is issued before supply of service, the supplier</u> is required to issue a “credit note” in terms of section 34 of the Assam GST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the Assam GST Act. There is no need to file a separate refund claim. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through FORM GST RFD-01 . |
| 2. | An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. | In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31 (2) of the Assam GST Act, he is required to issue a “refund voucher” in terms of section 31 (3) (e) of the Assam GST Act read with rule 51 of the Assam GST Rules. The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the |

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| | Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns? | category "Refund of excess payment of tax". |
| 3. | Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns ? | In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a "credit note" in terms of section 34 of the Assam GST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the Assam GST Act. There is no need to file a separate refund claim in such a case. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through FORM GST RFD-01 . |
| 4. | Letter of Undertaking (LUT) furnished for the purposes of zero-rated supplies as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 read with rule 96A of the Assam GST Rules has expired on 31.03.2020. Whether a registered person can still make a zero-rated supply on such LUT and claim refund accordingly or does he have to make such supplies on payment of IGST and claim refund of such IGST ? | Notification No. 37/2017-Central Tax, dated 04.10.2017, requires <u>LUT to be furnished for a financial year</u> . However, in terms of notification as referred in sl. no. (6) in para 2 of Circular No. 89/2020-GST dated 16.04.2020, where the requirement under the GST Law for furnishing of any report, document, return, statement or such other record falls during between the period from 20.03.2020 to 29.06.2020, has been extended till 30.06.2020. Therefore, in terms of Notification as referred in sl. no. (6) in para 2 of Circular No. 89/2020-GST dated 16.04.2020, where the requirement under the GST Law for furnishing, time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020 and the taxpayer can continue to make the supply without payment of tax under LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020. Taxpayers may quote the reference no of the LUT for the year 2019-20 in the relevant documents. |
| 5. | While making the payment to recipient, amount equivalent to one per cent was deducted as per the provisions of section 51 of Assam Goods and Services Tax Act, 2017 i. e. Tax Deducted at Source (TDS). Whether the date of deposit of such | As per notification as referred in sl. no. (6) in para 2 of Circular No. 89/2020-GST dated 16.04.2020, where the requirement under the GST Law for furnishing, where the timeline for any compliance required as per sub-section (3) of section 39 and section 51 of the Assam GST Act falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for furnishing of return in FORM GSTR-7 along with deposit of tax deducted for the said period has also been extended till 30.06.2020 and no interest under section 50 shall be leviable if tax deducted is deposited by 30.06.2020. |

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| | <p>payment has also been extended vide notification as referred in sl. no. (6) in para 2 of Circular No. 89/2020-GST dated 16.04.2020 ?</p> | |
| 6. | <p>As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date. If in a particular case, date for making an application for refund expires on 31.03.2020, can such person make an application for refund before 29.07.2020?</p> | <p>As per notification as referred in sl. no. (6) in para 2 of Circular No. 89/2020-GST dated 16.04.2020, where the requirement under the GST Law for furnishing, where the timeline for any compliance required as per sub-section (1) of section 54 of the Assam GST Act falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for filing an application for refund falling during the said period has also been extended till 30.06.2020.</p> |

2. This Circular is clarificatory in nature and not meant for any interpretation of provisions of the Act and rules.
3. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Commissioner at an early date.
4. This Circular shall be deemed to have been issued on 13th April, 2020.

Sd/ = Anurag Goel, IAS.,
Commissioner of State tax, Assam,
Dispur, Guwahati

Memo No. CT/GST-15/2017/353-A

Dated Dispur the 21st April, 2020.

Copy to :

1. The Commissioner & Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
2. The Commissioner of Central GST, Guwahati / Dibrugarh for information.
3. The Additional Commissioner of State tax (All) / Joint Commissioner of State tax (All)/ Deputy Commissioner of State tax (All) / Assistant Commissioner of State tax (All) / Superintendent of State tax (All) / Inspector of State tax (All) for information and necessary action.
4. The Information Technology Officer, Office of the Commissioner of State tax, Assam for uploading it on the website of the Commissionerate for information of all concerned.

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Commissioner of State tax, Assam,
Dispur, Guwahati