

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

CIRCULAR NO. 41/2019-GST

Dated Dispur the 13th February, 2019.

Subject : Changes in Circulars issued earlier under the Assam GST Act, 2017 – Reg

No. CT/GST-15/2017/300. — The CGST (Amendment) Act, 2018, SGST Amendment Acts of the respective States, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and the GST (Compensation to States) (Amendment) Act, 2018 (hereafter referred to as the GST Amendment Acts) have been brought in force with effect from 01.02.2019.

2. Consequent to the GST Amendment Acts, the following circulars issued earlier under the Assam GST Act, 2017 are hereby amended with effect from 01.02.2019, to the extent detailed in the succeeding paragraphs.

3. **Circular No. 8/2017 dated 17.10.2017 [No. CT/GST-15/2017/33 dtd. 17.10.2017]**

The circular is revised in view of the amendment carried out in section 2(6) of the IGST Act, 2017 vide section 2 of the IGST (Amendment) Act, 2018 allowing realization of export proceeds in INR, wherever allowed by the RBI. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

3.1 Original Para (k)

Realization of export proceeds in Indian Rupee: Attention is invited to para A (v) Part- I of RBI Master Circular No. 14/2015-16 dated 01stJuly, 2015 (updated as on 05th November, 2015), which states that “*there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan*”.

Accordingly, it is clarified that the acceptance of LUT for supplies of goods to countries outside India Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

3.2 Amended Para (k)

Realization of export proceeds in Indian Rupee: Attention is invited to para A (v) Part- I of RBI Master Circular No. 14/2015-16 dated 01stJuly, 2015 (updated as on 05th November, 2015), which states that “*there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan*”. Further, attention is invited to the amendment to section 2(6) of the IGST Act, 2017 which allows realization of export proceeds of services in INR, wherever allowed by the RBI.

Accordingly, it is clarified that the acceptance of LUT for supplies of goods or services to countries outside India or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines.

4. Circular No. 10/2018-GST dated 12.06.2018 [CT/GST-15/2017/99 dtd. 12.06.2018]

This circular is revised in view of the amendment carried out in section 129 of the Assam GST Act, 2017 vide section 27 of the Assam GST (Amendment) Act, 2018 allowing 14 days for owner/transporter to pay tax/penalty for seized goods. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

4.1 Original Para 2(k)

In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in **FORM GST MOV-06**, the action under section 130 of the Assam GST Act shall be initiated by serving a notice in **FORM GST MOV-10**, proposing confiscation of the goods and conveyance and imposition of penalty.

4.2 Amended Para 2(k)

In case the proposed tax and penalty are not paid within fourteen days from the date of the issue of the order of detention in **FORM GST MOV-06**, the action under section 130 of the Assam GST Act shall be initiated by serving a notice in **FORM GST MOV-10**, proposing confiscation of the goods and conveyance and imposition of penalty.

4.3 Further, **FORM GST MOV-08** and **FORM GST MOV-09**, annexed to the circular are revised as below:

FORM GST MOV-08 (para 4)

And if all taxes, interest, penalty, fine and other lawful charges demanded by the proper officer are duly paid within fourteen days of the date of detention being made in writing by the said proper officer, this obligation shall be void.

FORM GST MOV-09 (para 10)

You are hereby directed to make the payment forthwith/not later than fourteen days from the date of the issue of the order of detention in **FORM GST MOV-06**, failing which action under section 130 of the Assam Goods and Services Tax Act/Central Goods and Services Tax Act or section 20 of the Integrated Goods and Services Act shall be initiated.

5. Circular No. 18/2018-GST dated 04.09.2018 [CT/GST-15/2017/183 dtd. 18.09.2018]

This circular is revised in order to streamline the modes of recovery. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

5.1 Original Para 3.

Currently, the functionality to record this liability in the electronic liability register is not available on the common portal. Therefore, it is clarified that as an alternative method, taxpayers may reverse the wrongly availed credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of **FORM GSTR-3B**. The applicable interest and penalty shall apply on all such reversals which shall be paid through entry in column 9 of Table 6.1 of **FORM GST-3B**.

5.2 Amended Para 3.

It may be noted that all such liabilities may be discharged by the taxpayers, either voluntarily in **FORM GST DRC-03** or may be recovered vide order uploaded in **FORM GST DRC-07**, and payment against the said order shall be made in **FORM GST DRC-03**. It is further clarified that the alternative method of reversing the wrongly availed credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of **FORM GSTR-3B** would no longer be available to taxpayers. The applicable interest and penalty shall apply in respect of all such amounts, which shall also be paid in **FORM GST DRC-03**.

6. Circular No. 25/2018-GST dated 26.10.2018 [CT/GST-15/2017/196 dtd. 29.10.2019]

The circular is revised in view of the amendment carried out in section 29 of the Assam GST Act, 2017 vide section 14 of the Assam GST (Amendment) Act, 2018 allowing suspension of registration. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

6.1 Original Para 11.

It is pertinent to mention here that section 29 of the Assam GST Act has been amended by the Assam GST (Amendment) Act, 2018 to provide for "Suspension" of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. Although the provisions of Assam GST (Amendment) Act, 2018 have not yet been brought into force, it will be prudent for the field formations may not to issue notices for non-filing of return for taxpayers who have already filed an application for cancellation of registration under

section 29 of the Assam GST Act. However, the requirement of filing a final return, as under section 45 of the Assam GST Act, remains unchanged.

6.2 Amended Para 11.

It is pertinent to mention here that section 29 of the Assam GST Act has been amended by the Assam GST (Amendment) Act, 2018 to provide for "Suspension" of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. Accordingly, the field formations may not issue notices for non-filing of return for taxpayers who have already filed an application for cancellation of registration under section 29 of the Assam GST Act. Further, the requirement of filing a final return, as under section 45 of the Assam GST Act, remains unchanged.

7. This Circular is clarificatory in nature and not meant for any interpretation of provisions of the Act and rules.
8. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Commissioner at an early date.
9. This Circular shall be deemed to have come into force with effect from the 1st February, 2019.


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

Memo No. CT/GST-15/2017/300-A

Dated Dispur the 13th February, 2019.

Copy to :

1. The Additional Chief Secretary to the Government of Assam, Finance Department, Dispur, Guwahati-6 for favour of kind information.
2. The Commissioner & Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
3. The Commissioner of Central GST, Guwahati / Dibrugarh for information.
4. The Special Commissioner of State tax / Additional Commissioner of State tax (All) / Joint Commissioner of State tax (All) for information.
5. The 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.
6. 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.


Commissioner of State tax, Assam,
Dispur, Guwahati