

Office of the  
Commissioner of State Tax,  
Maharashtra State, 8<sup>th</sup> floor,  
GST Bhavan, Mazgaon,  
Mumbai-400 010.

### TRADE CIRCULAR

To-----

No. DC (A& R-5)/GST/MISC/2023/ 75 /ADM-8

Dated: 11/08/2023

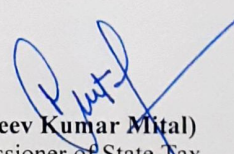
Trade Circular. 22T of 2023

**Sub:** Clarifications regarding applicability of GST on certain services- reg.

**Ref:** Circular no. 201/ 13/2023-GST dt. 1<sup>st</sup> August, 2023 issued by the CBIC.

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that said circular issued by the CBIC is being made applicable, *mutatis mutandis*, in implementation of the MGST Act, 2017. Copy of the referred CBIC circular is attached herewith.

This Trade Circular is clarificatory in nature. Difficulty if any, in the implementation of this Circular may be brought to the notice of the office of the Commissioner of State Tax, Maharashtra.

  
(Rajeev Kumar Mital)  
Commissioner of State Tax,  
Maharashtra State, Mumbai.

No. DC (A& R-5)/GST/MISC/2023/ 75 /ADM-8

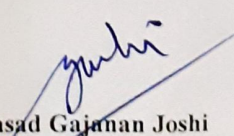
Dated:- 11/08/2023

Trade Circular. 22T of 2023

Copy forwarded to the Joint Commissioner of State Tax (Mahavikas) with a request to upload this Trade Circular on the Department website.

**Copy submitted with compliments to,-**

- The Deputy Secretary, Finance Department, Mantralaya, Mumbai-21 for information.
- Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.

  
Prasad Gajanan Joshi  
Joint Commissioner of State Tax (HQ-1)  
Maharashtra State, Mumbai.

**Circular No. 201/13/2023-GST**

**F. No. 190354/133/2023-TRU**

**Government of India  
Ministry of Finance  
Department of Revenue**

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North Block, New Delhi,  
Dated the 1<sup>st</sup> August, 2023

**To,**

**The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/  
Commissioner of Central Tax (All) / The Principal Director Generals/ Director Generals  
(All)**

Madam/Sir,

**Subject: Clarifications regarding applicability of GST on certain services – reg.**

Representations have been received seeking clarifications on the following issues

1. Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism;
2. Whether supply of food or beverages in cinema hall is taxable as restaurant service.

The above issues have been examined by GST Council in the 50th meeting held on 11<sup>th</sup> July, 2023. The issue -wise clarifications as recommended by the Council are given below:

**Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism:**

2. Reference has been received requesting for clarification whether services supplied by a director of a company or body corporate in personal or private capacity, such as renting of immovable property to the company, are taxable under Reverse Charge Mechanism (RCM) or not.

2.1 Entry No. 6 of notification No. 13/2017 CTR dated 28.06.2017 provides that tax on services supplied by director of a company or a body corporate to the said company or the body corporate shall be paid by the company or the body corporate under Reverse Charge Mechanism.

2.2 It is hereby clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017.

**Whether supply of food or beverages in cinema hall is taxable as restaurant service:**

3. References have been received requesting for clarification whether supply of food and beverages at cinema halls is taxable as restaurant service which attract GST at the rate of 5% or not.

3.1 As per Explanation at Para 4 (xxxii) to notification No. 11/2017-CTR dated 28.06.2017, *“Restaurant Service’ means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied.”*

3.2 Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.

3.3 The cinema operator may run these refreshment or eating stalls/ kiosks/ counters or restaurant themselves or they may give it on contract to a third party. The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

3.4 It is hereby clarified that supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

- a) the food or beverages are supplied by way of or as part of a service, and
- b) supplied independent of the cinema exhibition service.

3.5 It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

4. Difficulties, if any, in implementation of this circular may be brought to the notice of the Board.

Yours faithfully,

(Rajeev Ranjan)  
Under Secretary, TRU

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