

Office of the
Commissioner of State Tax.
Maharashtra State, 8th Floor,
GST Bhavan, Mazgaon.
Mumbai-400 010.

TRADE CIRCULAR

B-105

No. JC (HQ)-5/GST/2023/ADM-8⁴ dated 03/11/2023.

Trade Circular No. 1 T of 2023.

To,
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Subject: Clarification on the entitlement of input tax credit where the place of supply is determined in terms of the proviso to sub-section (8) of section 12 of the Integrated Goods and Services Tax Act, 2017

Ref: Circular No. 184/16/2022-GST dt 27th December, 2022 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 the 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.

Yours faithfully,


(RAJEEV KUMAR MITAL)
Commissioner of State Tax,
Maharashtra State, Mumbai.

B-105

No. JC (HQ)-5/GST/2023/ADM-8⁴ dated 03/11/2023.

Trade Circular No. 1 T of 2023.

Copy forwarded to the Joint Commissioner of State Tax (Mahavikas) with a request to upload this Trade Circular on the Departments Web-site.

Copy submitted with compliments to,-

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


(VISHAKHA BORSE)
Joint Commissioner of State Tax-HQ-5,
Maharashtra State, Mumbai.

F. No. CBIC-20001/2/2022 - GST

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs

GST Policy Wing

New Delhi, Dated the 27th December, 2022

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioners of Central Tax (All)/

The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarification on the entitlement of input tax credit where the place of supply is determined in terms of the proviso to sub-section (8) of section 12 of the Integrated Goods and Services Tax Act, 2017 – reg.

Attention is invited to sub-section (8) of section 12 of Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as “IGST Act”) which provides for the place of supply of services by way of transportation of goods, including by mail or courier, where location of the supplier as well as the recipient of services is in India. As per clause (a) of the aforesaid sub-section, the place of supply of services by way of transportation of goods, including by mail or courier, to a registered person shall be the location of such registered person. However, the proviso to the aforesaid sub-section which was inserted vide the Integrated Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01.02.2019 provides that where the transportation of goods is to a place outside India, the place of supply of the said service shall be the place of destination of such goods. In such cases, as the place of supply of services, as per the proviso to sub-section (8) of section 12 of IGST Act, is the concerned foreign destination and not the State where the recipient is registered under GST, doubts are being raised regarding the availability of input tax credit of the said services to the recipient located in India.

2. In order to clarify this issue and 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 (hereinafter referred to as “CGST Act”), hereby clarifies the issues as under:

Sl. No.	Issue	Clarification
1.	<p>In case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, what would be the place of supply of the said services?</p>	<p>The place of supply of services by way of transportation of goods, including by mail or courier, where both the supplier and the recipient are located in India, is determined in terms of sub-section (8) of section 12 of the IGST Act which reads as follows:</p> <p><i>“(8) The place of supply of services by way of transportation of goods, including by mail or courier to,—</i></p> <p><i>(a) a registered person, shall be the location of such person;</i></p> <p><i>(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation:</i></p> <p><i>Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods”</i></p> <p>Hence, in case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, the place of supply is the concerned foreign destination where the goods are being transported, in accordance with the proviso to the sub-section (8) of section 12 of IGST Act, which was inserted vide the Integrated Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01.02.2019.</p> <p>Illustration:</p> <p><i>X is a person registered under GST in the state of West Bengal who intends to export goods to a person Y located in Singapore. X avails the services for transportation of goods by air to Singapore from an air cargo</i></p>

		<p><i>operator Z, who is also registered under GST in the state of West Bengal.</i></p> <p><i>In this case, the place of supply of the services provided by Z to X is the place of destination of goods i.e., Singapore, in terms of the proviso to sub-section (8) of section 12 of IGST Act.</i></p>
2.	In the case given in Sl. No. 1, whether the supply of services will be treated as inter-State supply or intra-State supply?	<p>The aforesaid supply of services would be considered as inter-State supply in terms of sub-section (5) of section 7 of the IGST Act since the location of the supplier is in India and the place of supply is outside India. Therefore, integrated tax (IGST) would be chargeable on the said supply of services.</p> <p>In respect of the illustration given in Sl. No. 1. above, Z would charge IGST from X in terms of sub-section (5) of section 7 of the IGST Act, for supply of services by way of transportation of goods.</p>
3.	In the case given in Sl. No. 1, whether the recipient of service of transportation of goods would be eligible to avail input tax credit in respect of the said input service of transportation of goods?	<p>Section 16 of the CGST Act lays down the eligibility and conditions for taking input tax credit whereas, section 17 of the CGST Act provides for apportionment of credit and blocked credits under circumstances specified therein. The said provisions of law do not restrict availment of input tax credit by the recipient located in India if the place of supply of the said input service is outside India. Thus, the recipient of service of transportation of goods shall be eligible to avail input tax credit in respect of the IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in section 16 and 17 of the CGST Act.</p> <p>In the illustration given in Sl. No. 1 above, X would be eligible to take input tax credit of IGST in respect of supply of services received by him from Z, subject to the fulfilment of other conditions laid down in section 16 and 17 of the CGST Act.</p>
4.	In the case mentioned at Sl. No. 1,	The supplier of service shall report place of supply

	<p>what state code has to be mentioned by the supplier of the said service of transportation of goods, where the transportation of goods is to a place outside India, while reporting the said supply in FORM GSTR-1?</p>	<p>of such service by selecting State code as '96-Foreign Country' from the list of codes in the drop-down menu available on the portal in FORM GSTR-1.</p>
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3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal)
Principal Commissioner (GST)