

Office of the  
Commissioner of State Tax,  
(GST), 8<sup>th</sup> floor. GST Bhavan,  
Mazgaon, Mumbai-400010.

**TRADE CIRCULAR**

To,

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No.JC (HQ)-1/GST/2019/CBIC Circular(s)/ADM-8 Mumbai dated 17/05/2019

Trade Circular (GST) NO. 23<sup>T</sup> of 2019.

**Sub. : Changes in Circulars issued earlier under the MGST Act,  
2017 – Reg.**

- Ref. :** (1) Circular No.88/07/2019 dated 1<sup>st</sup> February, 2019 issued by  
CBIC
- (2) Circular No. 50 T of 2017 dated 07.12.2017
- (3) Circular No. 14 T of 2018 dated 23.04.2018
- (4) Circular No. 40 T of 2018 dated 31.12.2018

Sir/Gentlemen/Madam,

1. Your attention is invited towards the Circular at Reference No.(1) above issued by the Central Board of Indirect Taxes and Customs (CBIC). The CGST (Amendment) Act, 2018, MGST (Amendment) Act, 2018, 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 MGST Act, 2017 are hereby amended with effect from 01.02.2019, to the extent detailed in the succeeding paragraphs.

**3. Circular No. 50 T of 2017 dated 07.12.2017**

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 3.9.**

#### **Realization of export proceeds in Indian Rupee:**

**3.9.1.** Attention is invited to para A (v) Part- I of RBI Master Circular No. 14/2015-16 dated 01<sup>st</sup>July, 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*”.

**3.9.2.** Accordingly, it is clarified that the acceptance of LUT for supplies of goods to 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 3.9.**

#### **Realization of export proceeds in Indian Rupee:**

**3.9.1.** Attention is invited to para A (v) Part- I of RBI Master Circular No. 14/2015-16 dated 01<sup>st</sup>July, 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.

**3.9.2.** 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. 14 T of 2018 dated 23.04.2018**

This circular is revised in view of the amendment carried out in section 129 of the MGST Act, 2017 vide section 27 of the MGST (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 MGST 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 MGST 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 Maharashtra Goods and Services Tax Act, 2017 and section 130 of the Central Goods and Services Tax Act, 2017 or section 20 of Integrated Goods and Services Tax Act shall be initiated.

**5. Circular No. 40 T of 2018 dated 31.12.2018**

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

**5.1. Original Para 11.**

It is pertinent to mention here that section 29 of the MGST Act has been amended by the MGST (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 MGST (Amendment) Act, 2018 have not yet been brought into force, it will be prudent for the field formations 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 MGST Act. However, the requirement of filing a final return, as under section 45 of the MGST Act, remains unchanged.

## 5.2. Amended Para 11.

It is pertinent to mention here that section 29 of the MGST Act has been amended by the MGST (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 MGST Act. Further, the requirement of filing a final return, as under section 45 of the MGST Act, remains unchanged.

6. This Circular is clarificatory in nature and hence cannot be made use of interpretation of provisions of the law. Difficulty if any, in this implementation of this Circular may be brought to the notice of the Office of the Commissioner of State Tax, Maharashtra State.

Yours faithfully,



(Rajiv Jalota)

**Commissioner of State Tax (GST)  
Maharashtra State, Mumbai.**

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Trade Circular (GST) No. 23 of 2019.

Copy forwarded for information and necessary action to,-

- (1) The Joint Commissioner of State Tax (MAHAVIKAS) with a request to upload this Trade Circular on the Departments Web-site.
- (2) The Deputy Secretary, Finance Departments, Mantralaya, Mumbai.
- (3) Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.



(Shriram H. Umale)

Joint Commissioner of State Tax,  
(GST), (HQ) 1, Maharashtra State.

