

**TRADE CIRCULAR**

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No. JC (HQ)-1/GST/2018/CBIC Circular(s)/ADM-8 Mumbai dated **31st Dec. 2018**

**Trade Circular (GST) No. 41 T of 2018.**

**Subject : Clarifications of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor.**

**Ref.** CBIC Circular No. Circular No. 71/45/2018-GST dated 26<sup>th</sup> October 2018.

Sir/Gentlemen/Madam,

1. Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

<b>Sr. No.</b>	<b>Issue</b>	<b>Clarification</b>
1.	Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<p>1. It has been noted that while applying for registration as a casual taxable person, the <b>FORM GST REG-1</b> (S. No. 11) seeks information regarding the <b>“estimated net tax liability”</b> only and not the gross tax liability.</p> <p>2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while</p>

<b>Sr. No.</b>	<b>Issue</b>	<b>Clarification</b>
		obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.
2.	As per section 27 of the Maharashtra Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), period of operation by causal taxable person is ninety days with provision for extension of same by the proper officer for a further period not exceeding ninety days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.	<p>1. It is clarified that in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.</p> <p>2. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.</p> <p>3. In such cases he would not be required to pay advance tax for the purpose of registration.</p> <p>4. He can surrender such registration once the exhibition is over.</p>
3.	Representations have been received regarding the manner of recovery of excess credit	1. According to Section 21 of the MGST Act where the ISD distributes the credit in

Sr. No.	Issue	Clarification
	<p>distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in section 20 of the MGST Act.</p>	<p>contravention of the provisions contained in section 20 of the MGST Act resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any.</p> <p>2. The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest if any by using <b>FORM GST DRC-03</b>.</p> <p>3. If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s) under the provisions of section 73 or 74 of the MGST Act as the case may be. <b>FORM GST DRC-07</b> can be used by the tax authorities in such cases.</p> <p>4. It is further clarified that the ISD would also be liable to a general penalty under the provisions contained in section 122(1)(ix) of the MGST Act.</p>

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

Yours Faithfully,



**(Rajiv Jalota)**

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

No. JC (HQ)-1/GST/2018/CBIC Circular(s)/ADM-8 Mumbai dated 31st Dec. 2018.

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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,-

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



**(R. D. Bhagat)**

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