

EY Tax Alert

CBIC issues instructions/clarifications under GST

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Executive summary

This Tax Alert summarizes recent circulars¹ issued by the Central Board of Indirect Taxes and Customs (CBIC).

The instructions/clarifications are as follows:

- ▶ Taxpayers are instructed to report inter-state supplies to unregistered person in Table 3.2 of Form GSTR-3B, failing which penalty is attracted under section 125 (General penalty) of Central Goods and Services Tax (CGST) Act.
- ▶ Taxpayers are instructed to mention place of supply along with the state's name on the tax invoice in case of interstate supply. Failure to mention the same attracts penalty under section 122 (Penalty for certain offences) or section 125 of CGST Act.
- ▶ Taxpayers who paid Central tax and State tax on supply of warehoused goods instead of Integrated tax, during the period July 2017 to March 2018, would be deemed to have complied with the (payment of tax) provisions of law.

¹ Circular Nos. 89/08/2019 -GST, 90/09/2019 -GST and 91/10/2019-GST all dated 18 February 2019

Background

- ▶ With a view to ensure uniformity in the implementation of the provisions of the law and facilitate efficiency in tax administration, CBIC has issued three circulars under Goods and Services Tax (GST) on 18 February 2019.

Circulars

Reporting details of inter-state supplies to unregistered person²

- ▶ The registered person is required to report place of supply wise (state-wise) details of inter-state supplies made to unregistered persons, composition taxable persons and UIN holders in Table 3.2 of Form GSTR 3B.
- ▶ The above details are considered for apportionment of Integrated tax between Centre and State.
- ▶ Further, the details of all inter-state supplies to unregistered persons where the invoice value is up to INR 2.5 lakhs are required to be reported in Table 7B of FORM GSTR-1.
- ▶ It was noticed that many registered persons have not reported details of such inter-state supplies in Form GSTR-3B but reported the same in Form GSTR-1 which resulted in:
 - ▶ non-apportionment of amount of Integrated tax to the state where supply takes place.
 - ▶ mismatch in the amount of actual supplies in a state and amount of Integrated tax apportioned between Centre and State.
- ▶ In view of above, the circular instructs that the registered persons making inter-State supplies to unregistered persons shall report the details of such supplies along with the place of supply in Table 3.2 of FORM GSTR-3B and Table 7B of FORM GSTR-1.
- ▶ Contravention of the same will attract penalty under section 125 (General Penalty of the Central Goods and Services Tax (CGST) Act.

Mentioning place of supply on a tax invoice in case of inter-state supply³

- ▶ Rule 46 of the CGST Rules, 2017 specifies certain particulars which are to be mentioned on a tax invoice. It inter-alia includes place of supply along with name of the state in case of inter-state supply.
- ▶ However, the Government has observed that many registered persons (especially in the banking, insurance and telecom sectors, etc.) failed to mention the said information.
- ▶ As GST being a destination based consumption tax, the

above details ensure that tax paid by the registered person is accrued to the state in which goods or services are consumed.

- ▶ Basis above, circular instructs that all registered persons making inter-state supply shall specify the place of supply along with the name of the State on a tax invoice.
- ▶ Contravention of the same attracts penalty under section 122 (liability for certain offences) or section 125 of the CGST Act.

Supply of warehoused goods while being deposited in custom bonded warehouse⁴

- ▶ Supply of goods while being deposited in custom bonded warehouse is considered as an inter-state supply of goods.
- ▶ The said supply of goods was subject to payment of Integrated tax for the period 1 July 2017 to 31 March 2018.
- ▶ However, the common portal did not have the facility to enable the taxpayer to report payment of Integrated tax, in the details required to be submitted in Form GSTR-1, for such supplies especially where the supplier and the recipient were located in the same State or Union territory.
- ▶ Hence, taxpayers engaged in such supplies have reported the said supplies as intra-state supplies and discharged Central tax and State tax instead of Integrated tax.
- ▶ To address this issue, the circular clarifies that, as a one-time exception, suppliers who had paid Central tax and State tax on the above supplies would be deemed to have complied with the provisions of law as far as payment of tax on such supplies is concerned. This is subject to the condition that the amount of tax paid as Central tax and State tax is equal to the amount of Integrated tax on such supplies.

Comments

In view of the CBIC clarification on imposition of penalty due to non-reporting in GST Return and Tax invoice, which could tantamount to furnishing of inaccurate particulars, taxpayers may need to be more cautious in filling all the requisite information to avoid any unwarranted consequences.

Government acknowledging the system glitches in GST network and thereby deeming appropriate compliance of tax payment, though under a wrong head in case of supply of warehoused goods, is a welcome move and might eliminate litigation.

² Circular No. 89/08/2019-GST dated 18 February 2019

³ Circular No. 90/09/2019-GST dated 18 February 2019

⁴ Circular No. 91/10/2019-GST dated 18 February 2019

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