

# EY Tax Alert

## CBIC issues further clarifications under GST

Tax Alerts cover significant tax news, developments and changes in legislation that affect Indian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your Ernst & Young advisor.

### Executive summary

This Tax Alert summarizes a recent Circular<sup>[1]</sup> issued by the Central Board of Indirect Taxes and Customs (CBIC), clarifying certain issues under Goods and Services Tax (GST) as follows:

Some of the key clarifications are as follows:

- ▶ Moulds and dies owned by Original Equipment Manufacturer (OEM) sent free of cost to component manufacturer is not a supply under GST
- ▶ Separate rates for goods and services will apply in case of servicing of cars where the value of such goods and services supplied are shown separately
- ▶ E-way bill is required for intra-state supply of goods if they move through another state
- ▶ E-way bill is not required for movement of goods from Domestic Tariff Area (DTA) to Special Economic Zone (SEZ) or vice versa where both are located in the same state
- ▶ Railways shall not deliver goods without production of e-way bill at the time of delivery

<sup>[1]</sup> Circular No. 47/21/2018-GST dated 08 June 2018

## Background

Central Board of Indirect Taxes and Customs (CBIC) has issued the Circular clarifying certain issues under Goods and Services Tax (GST) based on the representations made by trade and industry.

## Clarifications

### **Moulds and dies owned by Original Equipment Manufacturer (OEM) sent free of cost (FOC) to component manufacturer is not a supply under GST**

- ▶ **Moulds owned by OEM sent on FOC basis**
  - ▶ The Circular clarifies that moulds and dies owned by the OEM which are provided to component manufacturers (not being related persons or distinct persons) on FOC basis does not amount to a supply under GST as there is no consideration involved.
  - ▶ Further, there is no requirement to reverse the ITC availed on such moulds and dies by OEM since they are provided by the OEM to the component manufacturer in the course or furtherance of business.
  - ▶ The Circular also clarifies that the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis is not required to be added to the value of the supply made by the component manufacturer in terms of Section 15(2)(b) of the CGST Act.
  - ▶ The said section provides for the inclusion of any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable.
  - ▶ This is because the cost of moulds/dies was not intended to be incurred by the component manufacturer.
- ▶ **Moulds belonging to the component manufacturer supplied by OEM on FOC basis**
  - ▶ However, the situation changes if it was stipulated in the contract between OEM and component manufacturer that the components would be made by using the moulds/dies belonging to the component manufacturer, but the same was actually supplied by the OEM on FOC basis.
  - ▶ In such a case, the amortized cost of such moulds/dies shall be added to the value of the components.
  - ▶ Further, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business.

### **Separate rates for goods and services apply in case of servicing of cars (involving supply of both goods and services) where the values are shown separately**

- ▶ The Circular states that the taxability of supply in case of servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, would have to be determined on a case to case basis considering the facts and circumstances of each case.
- ▶ If the value of such goods and services supplied are shown separately, then they would be liable to tax at the rates as applicable to such goods and services separately.

### **E-way bill required for intra-state supply of goods if they move through another state**

- ▶ The Circular clarifies that requirement of e-way bill is dependent on whether the movement of goods is inter-state and not on whether the supply is inter-state.
- ▶ Therefore, if the goods transit through a second state while moving from one place in a state to another place in the same state, an e-way bill is required to be generated.

### **E-way bill is not required for movement of goods from Domestic Tariff Area (DTA) to Special Economic Zone (SEZ) or vice versa where both are located in the same state**

- ▶ The Circular clarifies that if goods move from a DTA unit to a SEZ unit or vice versa located in the same state, there is no requirement to generate an e-way bill provided it is exempted under Rule 138(14)(d) of the CGST Rules.
- ▶ The said rule provides that there will be no requirement of e-way bill within such areas as notified under Rule 138 (14) (d) of the state or Union territory GST Rules of that particular state or Union territory.

### **Railways shall not deliver goods without production of e-way bill at the time of delivery**

- ▶ The Circular clarifies that in case of transportation of goods by railways, such goods will not be delivered if the e-way bill is not produced at the time of delivery, thus reiterating the proviso to rule 138(2A) of the CGST Rules.

### **Warehouse may be declared as additional place of business by the principal and the auctioneer of tea, coffee, rubber**

- ▶ **Maintaining the books of accounts at additional place of business**

- ▶ The Circular clarifies that in case of auction of tea, coffee, rubber etc., the principal and the auctioneer may declare the warehouses, where such goods are stored, as their additional place of business.
- ▶ Further, the buyer is also required to disclose such warehouse as his additional place of business if he desires to store the goods purchased through auction in such warehouses.
- ▶ The Circular clarifies that the principal and an auctioneer may also comply with the said provisions in cases of supply of tea through a private treaty.
- ▶ As per first proviso to Section 35(1) of the CGST Act, the principal and the auctioneer (either for the purpose of auction of tea, coffee, rubber etc. or for supply of tea through a private treaty), are required to maintain the books of account relating to each and every place of business in that place itself.
- ▶ The Circular further clarifies that in case of difficulties in maintaining the books of accounts, they may maintain the books of accounts relating to the additional place(s) of business, at their principal place of business instead of such additional place(s).
- ▶ However, in such a situation, they are required to intimate their jurisdictional officer, in writing, regarding the maintenance of books of accounts relating to the additional place(s) of business at their principal place of business.

▶ **Availability of ITC**

The Circular clarifies that the principal and the auctioneer (either for the purpose of auction of tea, coffee, rubber etc., or for supply of tea through a private treaty) shall be eligible to avail ITC provided all relevant conditions as per the CGST Act and Rules are fulfilled.

## Comments

Clarifications issued by the government, particularly with reference to non-taxability of moulds issued for component manufacturing, though on expected lines, clears the ambiguity concerning not only the taxability but also the reversal of input tax credit.

Non-requirement of e-way bill for movement of goods between DTA and SEZ may help reduce the compliance burden.

# Our offices

## Ahmedabad

2nd floor, Shivalik Ishaan Near C.N.  
Vidhyalaya Ambawadi  
Ahmedabad - 380 015  
Tel: + 91 79 6608 3800  
Fax: + 91 79 6608 3900

## Bengaluru

6th, 12th & 13th floor "UB City",  
Canberra Block No.24 Vittal Mallya  
Road Bengaluru - 560 001  
Tel: + 91 80 4027 5000  
+ 91 80 6727 5000  
+ 91 80 2224 0696  
Fax: + 91 80 2210 6000

## Ground Floor, 'A' wing Divyasree

Chambers  
# 11, O'Shaughnessy Road Langford  
Gardens Bengaluru - 560 025  
Tel: +91 80 6727 5000  
Fax: +91 80 2222 9914

## Chandigarh

1st Floor, SCO: 166-167 Sector 9-C,  
Madhya Marg Chandigarh - 160 009  
Tel: +91 172 331 7800  
Fax: +91 172 331 7888

## Chennai

Tidel Park, 6th & 7th Floor  
A Block (Module 601,701-702) No.4,  
Rajiv Gandhi Salai Taramani, Chennai -  
600 113  
Tel: + 91 44 6654 8100  
Fax: + 91 44 2254 0120

## Delhi NCR

Golf View Corporate Tower B Sector 42,  
Sector Road Gurgaon - 122 002  
Tel: + 91 124 464 4000  
Fax: + 91 124 464 4050

## 3rd & 6th Floor, Worldmark-1 IGI Airport

Hospitality District Aerocity, New Delhi -  
110 037  
Tel: + 91 11 6671 8000  
Fax + 91 11 6671 9999

## 4th & 5th Floor, Plot No 2B

Tower 2, Sector 126  
NOIDA - 201 304  
Gautam Budh Nagar, U.P.  
Tel: + 91 120 671 7000  
Fax: + 91 120 671 7171

## Hyderabad

Oval Office, 18, iLabs Centre Hitech  
City, Madhapur Hyderabad - 500 081  
Tel: + 91 40 6736 2000  
Fax: + 91 40 6736 2200

## Jamshedpur

1st Floor, Shantiniketan Building  
Holding No. 1, SB Shop Area Bistupur,  
Jamshedpur - 831 001  
Tel: +91 657 663 1000  
BSNL: +91 657 223 0441

## Kochi

9th Floor, ABAD Nucleus  
NH-49, Maradu PO  
Kochi - 682 304  
Tel: + 91 484 304 4000  
Fax: + 91 484 270 5393

## Kolkata

22 Camac Street 3rd  
Floor, Block 'C' Kolkata -  
700 016  
Tel: + 91 33 6615 3400  
Fax: + 91 33 2281 7750

## Mumbai

14th Floor, The Ruby  
29 Senapati Bapat Marg Dadar  
(W), Mumbai - 400 028  
Tel: + 91 22 6192 0000  
Fax: + 91 22 6192 1000

## 5th Floor, Block B-2 Nirlon

Knowledge Park  
Off. Western Express Highway  
Goregaon (E)  
Mumbai - 400 063  
Tel: + 91 22 6192 0000  
Fax: + 91 22 6192 3000

## Pune

C-401, 4th floor Panchshil  
Tech Park Yerwada  
(Near Don Bosco School)  
Pune - 411 006  
Tel: + 91 20 6603 6000  
Fax: + 91 20 6601 5900

Ernst & Young LLP

EY | Assurance | Tax | Transactions | Advisory

### About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit [ey.com](http://ey.com).

Ernst & Young LLP is one of the Indian client serving member firms of EYGM Limited. For more information about our organization, please visit [www.ey.com/in](http://www.ey.com/in).

Ernst & Young LLP is a Limited Liability Partnership, registered under the Limited Liability Partnership Act, 2008 in India, having its registered office at 22 Camac Street, 3rd Floor, Block C, Kolkata - 700016

© 2018 Ernst & Young LLP. Published in India. All Rights Reserved.

This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither Ernst & Young LLP nor any other member of the global Ernst & Young organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.

Join India Tax Insights from EY on 



Download the EY India Tax  
Insights App Logo

[ey.com/in](http://ey.com/in)



@EY\_India



EY|LinkedIn



EY India



EY India careers



ey\_indiacareers