

GOVERNMENT OF ASSAM
OFFICE OF THE PRINCIPAL COMMISSIONER OF STATE TAX
CUM COMMISSIONER OF TAXES, ASSAM
KAR BHAWAN :: DISPUR, GUWAHATI-6

CIRCULAR NO. 146/2023-GST

Dated Dispur the 16th August, 2023.

Subject: Clarifications regarding applicability of GST on certain services – reg.

No. CT/GST-15/2017/868.— Representations have been received seeking clarifications on the following issues :

1. Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism;
2. Whether supply of food or beverages in cinema hall is taxable as restaurant service.

The above issues have been examined by GST Council in the 50th meeting held on 11th July, 2023. The issue -wise clarifications as recommended by the Council are given below:

Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism:

2. Reference has been received requesting for clarification whether services supplied by a director of a company or body corporate in personal or private capacity, such as renting of immovable property to the company, are taxable under Reverse Charge Mechanism (RCM) or not.
 - 2.1 Entry No. 6 of notification No. 13/2017 State Tax (Rate) dated 29th June, 2017 provides that tax on services supplied by director of a company or a body corporate to the said company or the body corporate shall be paid by the company or the body corporate under Reverse Charge Mechanism.
 - 2.2 It is hereby clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017 State Tax (Rate) (Sl. No. 6) dated 29th June, 2017.

Whether supply of food or beverages in cinema hall is taxable as restaurant service:

3. References have been received requesting for clarification whether supply of food and beverages at cinema halls is taxable as restaurant service which attract GST at the rate of 5% or not.
 - 3.1 As per Explanation at Para 4 (xxxii) to notification No. 11/2017-State Tax (Rate) dated 29th June, 2017, "*Restaurant Service*' means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied."
 - 3.2 Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.
 - 3.3 The cinema operator may run this refreshment or eating stalls/ kiosks/ counters or restaurant themselves or they may give it on contract to a third party. The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.
 - 3.4 It is hereby clarified that supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:
 - a) the food or beverages are supplied by way of or as part of a service, and
 - b) supplied independent of the cinema exhibition service.
 - 3.5 It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.
4. This Circular is clarificatory in nature and not meant for any interpretation of provisions of the Act and rules.
5. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Commissioner at an early date.
6. This Circular shall be deemed to have been issued on 1st August, 2023.

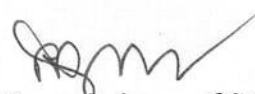
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(Rakesh Agarwala, IAS.,)

Principal Commissioner of State Tax, Assam,
Dispur, Guwahati

Copy to :

1. The Commissioner & Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
2. The Commissioner of Central GST, Guwahati / Dibrugarh for information.
3. The Special Commissioner of State Tax (All) / Additional Commissioner of State Tax (All)/ Joint Commissioner of State Tax (All) / Deputy Commissioner of State Tax (All) / Assistant Commissioner of State Tax (All) / Superintendent of State Tax (All) for information and necessary action.
4. The Information Technology Officer, Office of the Commissioner of State tax, Assam for uploading it on the website of the Commissionerate for information of all concerned.



Principal Commissioner of State Tax, Assam,
Dispur, Guwahati