



सत्यमेव जयते

भारत सरकार
वित्त मंत्रालय, राजस्व विभाग
कार्यालय आयुक्त

केन्द्रीय वस्तु व सेवा कर एवं केन्द्रीय उत्पाद शुल्क आयुक्तालय, उदयपुर
142-बी हिरण मगरी सेक्टर -11, उदयपुर (राजस्थान)

व्यापार सूचना सं. **07/2019**

दिनांक.: **03.07.2019**



System
→ System

Subject: Clarification regarding applicability of GST on additional /penal interest -reg.

कृपया इस पत्र के साथ Principal Commissioner (GST), Government of India, Ministry of Finance, Department of Revenue, CBIC, द्वारा जारी निम्नलिखित परिपत्र की प्रति संलग्न पावें :-

(1) Circular No. 102/21/2019-GST dated 28.06.2019

सभी व्यापार संघ, व्यापार व उद्योग मण्डलों से निवेदन है कि उक्त पत्र की विषय सामग्री से अपने सभी सदस्यों को अवगत कराने की कृपा करें ।

संलग्न: उपरोक्तानुसार

-sd -
(के.सी.शर्मा)
अपर आयुक्त

फा.सं.V(GST)30/Tech/Trade Notice/UDR/11/18

5/52

दिनांक : 03.07.2019

04

डाक सूची के अनुसार प्रति सभी को प्रेषित है ।

सहायक आयुक्त (तक.)

डाक सूची-निम्नानुसार प्रति सभी को प्रेषित है :-

1. मुख्य आयुक्त, (जे.जेड.), केन्द्रीय वस्तु एवं सेवाकर, जयपुर जो, जयपुर।
2. आयुक्त, केन्द्रीय वस्तु एवं सेवाकर, जयपुर/जोधपुर/अलवर।
3. आयुक्त, केन्द्रीय वस्तु एवं सेवाकर अंकेक्षण, जयपुर/जोधपुर।
4. आयुक्त, सीमा शुल्क, जयपुर।
5. आयुक्त (अपील्स), केन्द्रीय वस्तु एवं सेवाकर, जयपुर/जोधपुर।
6. द वेब मास्टर/अपर आयुक्त, केन्द्रीय वस्तु एवं सेवाकर आयुक्तालय, जयपुर, विभागीय वेबसाइट पर अपलोड करने हेतु।
7. उप/सहायक आयुक्त,
केन्द्रीय वस्तु एवं सेवाकर संभाग, (A/B/C/D/E/F/G/H/I)
उदयपुर/कांकरोली/भीलवाडा/चित्तोरगढ़/कोटा
8. उप/सहायक आयुक्त (कर अपवंचना/का. एवं.सत./अंकेक्षण/विधि/पुनरवलोकन/तक./न्याय-
निर्णय)उदयपुर
9. श्री वी.वी.नंदावत उदयपुर चैम्बर ऑफ़ कॉमर्स एंड इंडस्ट्रीज ,एमआईए, उदयपुर।
10. श्री मुकेश मोदी, उदयपुर मार्बल प्रोसेसर एसोसिएशन, मार्बल भवन, चित्रकूट नगर, भुवानी, उदयपुर।
11. श्री मनोज माथुर एसोसिएशन ऑफ़ स्माल इंडस्ट्रीज कोटा पुरुषार्थी भवन, रोड न. 5ए, इन्द्रप्रस्थ
औद्योगिक क्षेत्र,कोटा।
12. श्री अनिल अग्रवाल, सदस्य एसोसिएशन ऑफ़ स्माल इंडस्ट्रीज कोटा पुरुषार्थी भवन, रोड न. 5ए,
इन्द्रप्रस्थ औद्योगिक क्षेत्र,कोटा
13. श्री जे.पी. बाबेल, मेवाड़ चैम्बर ऑफ़ कॉमर्स एंड इंडस्ट्रीज, भीलवाडा, मेवाड़ चैम्बर भवन, नागोरी
गार्डन, भीलवाडा
14. सार्ड फाइल

F. No. CBEC- 20/16/04/2018 – GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 28th June, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /
Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarification regarding applicability of GST on additional / penal interest – reg.

Various representations have been received from the trade and industry regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI). An EMI is a fixed amount paid by a borrower to a lender at a specified date every calendar month. EMIs are used to pay off both interest and principal every month, so that over a specified period, the loan is fully paid off along with interest. In cases where the EMI is not paid at the scheduled time, there is a levy of additional / penal interest on account of delay in payment of EMI.

2. Doubts have been raised regarding the applicability of GST on additional / penal interest on the overdue loan i.e. whether it would be exempt from GST in terms of Sl. No. 27 of notification No. 12/2017-Central Tax (Rate) dated 28th June 2017 or such penal interest would be treated as consideration for liquidated damages [amounting to a separate taxable supply of services under GST covered under entry 5(e) of Schedule II of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”]. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarification.

3. Generally, following two transaction options involving EMI are prevalent in the trade:-

- Case – 1: X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. However, X gives Y an option to pay in installments, Rs 11,000/- every month before 10th day of the following month, over next four months (Rs 11,000/- *4 = Rs. 44,000/-). Further, as per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional / penal interest amounting to Rs. 500/- per month for the delay. In some instances, X is charging Y Rs. 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional / penal interest amounting to Rs. 500/- per month for each delay in payment.
- Case – 2: X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s ABC Ltd. The terms of the loan from M/s ABC Ltd. allows Y a period of four months to repay the loan and an additional / penal interest @ 1.25% per month for any delay in payment.

4. As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, the value of supply shall include "*interest or late fee or penalty for delayed payment of any consideration for any supply*". Further in terms of Sl. No. 27 of notification No. 12/2017-Central Tax (Rate) dated the 28.06.2017 "*services by way of (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services)*" is exempted. Further, as per clause 2 (zk) of the notification No. 12/2017-Central Tax (Rate) dated the 28th June, 2017, "*'interest' means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;*".

5. Accordingly, based on the above provisions, the applicability of GST in both cases listed in para 3 above would be as follows:

- Case 1: As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, the amount of penal interest is to be included in the value of supply. The

transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.

- Case 2: The additional / penal interest is charged for a transaction between Y and M/s ABC Ltd., and the same is getting covered under Sl. No. 27 of notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. Accordingly, in this case the 'penal interest' charged thereon on a transaction between Y and M/s ABC Ltd. would not be subject to GST, as the same would not be covered under notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. The value of supply of mobile by X to Y would be Rs. 40,000/- for the purpose of levy of GST.

6. It is further clarified that the transaction of levy of additional / penal interest does not fall within the ambit of entry 5(e) of Schedule II of the CGST Act i.e. "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act", as this levy of additional / penal interest satisfies the definition of "interest" as contained in notification No. 12/2017- Central Tax (Rate) dated 28.06.2017. It is further clarified that any service fee/charge or any other charges that are levied by M/s ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, and accordingly will not be exempt.

7. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

8. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board immediately. Hindi version follows.

(Upender Gupta)
Principal Commissioner (GST)