

CIRCULAR NO. 15/2018-GST
(Ref. Circular No. 53/27/2018-GST of Central Tax)

Subject: Clarification regarding applicability of GST on the petroleum gases retained for the manufacture of petrochemical and chemical products – regarding.

References have been received regarding the applicability of GST on the petroleum gases retained for the manufacture of petrochemical and chemical products during the course of continuous supply, such as Methyl Ethyl Ketone (MEK) feedstock, petroleum gases etc.

2. In this context, it may be recalled that clarifications on similar issues for specific products have already been issued vide Circular number 12/12/2017-GST dated 26th October, 2017 of, Ministry of Finance, Government of India and circular No. 08/2018-GST dated: 30.01.2018 of State Tax. These circulars apply *mutatis mutandis* to other cases involving same manner of supply as mentioned in these circulars. However, references have again been received from some of the manufacturers of other petrochemical and chemical products for issue of clarification on applicability of GST on petroleum gases, which are supplied by oil refineries to them on a continuous basis through dedicated pipelines, while a portion of the raw material is retained by these manufacturers (recipient of supply), and the remaining quantity is returned to the oil refineries. In this regard, an issue has arisen as to whether in this transaction GST would be leviable on the whole quantity of the principal raw materials supplied by the oil refinery or on the net quantity retained by the manufacturers of petrochemical and chemical products.

3. The GST Council in its 28th meeting held on 21.7.2018 discussed this issue and recommended for issuance of a general clarification for petroleum sector that in such transactions, GST will be payable by the refinery on the value of net quantity of petroleum gases retained for the manufacture of petrochemical and chemical products.

4. Accordingly, it is hereby clarified that, in the aforesaid cases, GST will be payable by the refinery only on the net quantity of petroleum gases retained by the recipient manufacturer for the manufacture of petrochemical and chemical products. Though, the refinery would be liable to pay GST on such returned quantity of petroleum gases, when the same is supplied by it to any other person. It is reiterated that this clarification would be

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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF TRADE AND TAXES
(POLICY BRANCH)
VYAPAR BHAWAN, I.P. ESTATE, NEW DELHI-110 002

No.F.3 (66)/Policy-GST/2017/ 531-36

Dated: 31-8-18

CIRCULAR NO. 16/2018-GST
(Ref. Circular No. 54/28/2018-GST of Central Tax)

Subject: Classification of fertilizers supplied for use in the manufacture of other fertilizers at 5% GST rate- reg.

References have been received regarding a clarification as to whether simple fertilizers, such as MOP (Murate of Potash) classified under Chapter 31 and supplied for use in manufacturing of a complex fertilizer, are entitled to the concessional GST rate of 5%, as applicable in general to fertilizers (i.e. fertilizers which are cleared to be used as fertilizers).

2.1 The matter has been examined. Chapter 31 of the Customs Tariff Act, 1975 covers Fertilizers. The fertilizers are mostly used for increasing soil and land fertility, either directly, or by use in manufacturing of complex fertilizers. However, certain fertilizers and similar goods falling under this Chapter may be used for individual purposes like use of molten urea for manufacture of melamine and urea used in manufacturing of urea-formaldehyde resins or organic synthesis.

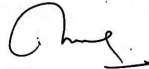
2.2 In the pre-GST regime, the concessional duty rate was prescribed for fertilizers falling under Chapter 31 of the Tariff (notification No. 12/2012-Central Excise). This concessional rate was applied to goods falling under Chapter 31 which are clearly to be used directly as fertilizers or in the manufacture of other fertilizers, whether directly or through the stage of an intermediate product.

3. In the GST regime, tax structure on fertilizers has been prescribed on the lines of pre-GST tax incidence. The wording of the GST notification is similar to the central excise notification except certain changes to meet the requirements of GST. These changes were necessitated as GST is applicable on the supply of goods while central excise duty was applicable on manufacture of goods. Accordingly, fertilizers falling under heading 3102, 3103,

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net billing is done on the amount retained by the recipient.

5. This clarification is issued in the context of the Goods and Service Tax (GST) law only and past issues, if any, will be dealt in accordance with the law prevailing at the material time.



(H. Rajesh Prasad)

Commissioner, GST(State Tax)

Dated: 31-8-18

No.F.3 (66)//Policy-GST/2017/ 525-30

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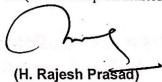


(Sadanand Sah)

Assistant Commissioner (Policy-I)

3104 and 3105, other than those which are clearly not to be used as fertilizers, attract 5% GST [S. No. 182A to 182D of the First schedule to the notification No.1/2017-State Tax (Rate) dated 30.06.2017]. However, the fertilizers items falling under the above mentioned headings, which are *clearly not to be used as fertilizer* attract 18% GST [S.No. 42 to 45 of the III schedule to the notification No. 1/2017 State Tax (Rate)]. The intention has been to provide concessional rate of GST to the fertilizers which are used directly as fertilizers or which are used in the manufacturing of complex fertilizers which are further used as soil or crop fertilizers. The phrase "*other than clearly to be used as fertilizers*" would not cover such fertilizers that are used for making complex fertilizers for use as soil or crop fertilizers.

4. Thus, it is clarified that the fertilizers supplied for direct use as fertilizers, or supplied for use in the manufacturing of other complex fertilizers for agricultural use (soil or crop fertilizers), will attract 5% IGST.


(H. Rajesh Prasad)


Commissioner, GST(State Tax)

No.F.3 (66)//Policy-GST/2017/ 531-36

Dated: 31-8-18

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(Sadanand Sah)
Assistant Commissioner (Policy-I)

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF TRADE AND TAXES
(POLICY BRANCH)
VYAPAR BHAWAN, I.P.ESTATE, NEW DELHI-110 002

No.F.3 (201)/Policy-GST/2018/ 854-59

Dated: 2-11-18

CIRCULAR NO. 17 /2018-GST
(Ref. Circular No. 71/45/2018-GST of Central Tax)

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

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:

S. No	Issue	Clarification
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 FORM GST REG-1 (S. No. 11) seeks information regarding the "estimated net tax liability" 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 obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.</p>
2.	As per section 27 of the Delhi Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), period of operation by casual taxable person is ninety days with provision for extension of same by the proper officer for a	<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</p>

<p>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>	<p>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>
<p>3. Representations have been received regarding the manner of recovery of excess credit distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in section 20 of the DGST Act.</p>	<p>1. According to Section 21 of the DGST Act where the ISD distributes the credit in contravention of the provisions contained in section 20 of the DGST 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 FORM GST DRC-03.</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</p>

section 73 or 74 of the DGST Act as the case may be, **FORM GST DRC-07** can be used by the tax authorities in such cases.

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 DGST Act.

2. Difficulty, if any, in the implementation of this circular should be brought to the Policy Branch, Trade & Taxes Department, Govt. of NCT of Delhi.

(H. Rajesh Prasad)

Commissioner, GST(State Tax)

Dated: 2-11-18

No.F.3 (201)/Policy-GST/2018/ 854-59

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(Sadanand Sah)

Assistant Commissioner (Policy)

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF TRADE AND TAXES
(POLICY BRANCH)
VYAPAR BHAWAN, I.P. ESTATE, NEW DELHI-110 002

No. F.3 (201)/Policy-GST/2018/ 860-65

Dated: 2-11-18

CIRCULAR NO. 18/2018-GST
(Ref. Circular No. 72/46/2018-GST of Central Tax)

Subject: Circular to clarify the procedure in respect of return of time expired drugs or medicines-Reg.

Various representations have been received seeking clarification on the procedure to be followed in respect of return of time expired drugs or medicines under the GST laws. The issues raised in the said representations have been examined and to ensure uniformity in the implementation of the law across the field formations, the Commissioner, in exercise of its powers conferred under section 168(1) of the Delhi Goods and Services Tax Act, 2017 (hereinafter referred to as the "DGST Act") hereby clarifies the issue in succeeding paragraphs.

2. The common trade practice in the pharmaceutical sector is that the drugs or medicines (hereinafter referred to as "goods") are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be. It is significant to mention here that such goods have a defined life term which is normally referred to as the date of expiry. Such goods which have crossed their date of expiry are colloquially referred to as time expired goods and are returned back to the manufacturer, on account of expiry, through the supply chain.

3. It is clarified that the retailer/ wholesaler can follow either of the below mentioned procedures for the return of the time expired goods:

(A) Return of time expired goods to be treated as fresh supply:

a) In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, "return supply"). The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible

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supply subject to the fulfilment of the conditions specified in Section 16 of the DGST Act.

b) In case the person returning the time expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply.

c) In case the person returning the time expired goods is an unregistered person, he may return the said goods by issuing any commercial document without charging any tax on the same.

d) Where the time expired goods which have been returned by the retailer/wholesaler are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of the provisions of clause (h) of sub-section (5) of section 17 of the DGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

Illustration: Supposedly, manufacturer has availed ITC of Rs. 10/- at the time of manufacture of medicines valued at Rs. 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is Rs. 15/-. So, when the time expired goods are destroyed by the manufacturer he would be required to reverse ITC of Rs. 15/- and not of Rs. 10/-.

(B) Return of time expired goods by issuing Credit Note:

a) As per sub-section (1) of Section 34 of the DGST Act the supplier can issue a credit note where the goods are returned back by the recipient. Thus, the manufacturer or the wholesaler who has supplied the goods to the wholesaler or retailer, as the case may be, has the option to issue a credit note in relation to the time expired goods returned by the wholesaler or retailer, as the case may be. In such a scenario, the retailer or wholesaler may return the time expired goods by issuing a delivery challan. It may be noted that there is no time limit for the issuance of a credit note in the law except with regard to the adjustment of the tax liability in case of the credit notes issued prior to the month of September following the end of the financial year and those issued after it.

b) It may further be noted that if the credit note is issued within the time limit specified in sub-section (2) of section 34 of the DGST Act, the tax liability may be adjusted by the



not availed the ITC or if availed has reversed the ITC so availed against the goods being returned.

c) However, if the time limit specified in sub-section (2) of section 34 of the DGST Act has lapsed, a credit note may still be issued by the supplier for such return of goods but the tax liability cannot be adjusted by him in his hands. It may further be noted that in case time expired goods are returned beyond the time period specified in the sub-section (2) of section 34 of the DGST Act and a credit note is issued consequently, there is no requirement to declare such credit note on the common portal by the supplier (i.e. by the person who has issued the credit note) as tax liability cannot be adjusted in this case.

d) Further, where the time expired goods, which have been returned by the retailer/wholesaler, are destroyed by the manufacturer, he/she is required to reverse the ITC attributable to the manufacture of such goods, in terms of the provisions of clause (h) of sub-section (5) of section 17 of the DGST Act. This has been illustrated in table below:

	Date of Supply of goods from manufacturer/ wholesaler to wholesaler/ retailer	Date of return of time expired goods from retailer / wholesaler to wholesaler / manufacturer	Treatment in terms of tax liability & credit note
Case 1	1 st July, 2017	20 th September, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) and the same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC.

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Case 2	1 st July, 2017	20 th October, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.
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3. It may be noted that though this circular discusses the scenarios in relation to return of goods on account of expiry of the same, it may be applicable to such other scenarios where the goods are returned on account of reasons other than the one detailed above.

4. Difficulty, if any, in the implementation of this circular should be brought to the Policy Branch, Trade & Taxes Department, Govt. of NCT of Delhi.

(H. Rajesh Prasad)

Commissioner, GST(State Tax)

Dated: 2-11-18

No.F.3 (201)//Policy-GST/2018/ 860-65

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(Sadahand Sah)

Assistant Commissioner (Policy)

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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF TRADE AND TAXES
POLICY (GST) Branch
VYAPAR BHAVAN: L.P. ESTATE: NEW DELHI-02

F. No. 3(66)/Policy-GST/2017/ 1434-40

Dated: 30/01/2018

Circular No. 09/2018-GST
(Ref: Central Circular No. 04/2018-GST)
30/04/2018

Subject: Clarification on supplies made to the Indian Railways classifiable under any chapter, other than Chapter 86 – regarding.

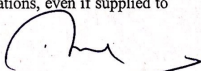
Representations have been received that certain suppliers are making supplies to the railways of items classifiable under any chapter other than chapter 86, charging the GST rate of 5%.

2. The matter has been examined. Vide State Notification No. 1/2017 –State Tax (Rate) dated 30th June, 2017, read with State Notification No. 5/2017- State Tax (Rate) dated 30th June, 2017, goods classifiable under Chapter 86 are subjected to 5% GST rate with no refund of unutilised input tax credit (ITC). Goods classifiable in any other chapter attract the applicable GST, as specified under state notification No. 1/2017 –State Tax (Rate) dated 30th June, 2017 or state notification No. 2/2017-State Tax (Rate) dated 30th June, 2017.

3. The GST Council during its 25th meeting held on 18th January, 2018, discussed this issue and recorded that a clarification regarding applicable GST rates on various supplies made to the Indian Railways may be issued.

4. Accordingly, it is hereby clarified that

- only the goods classified under Chapter 86, supplied to the railways attract 5% GST rate with no refund of unutilised input tax credit and
- other goods [falling in any other chapter], would attract the general applicable GST rates to such goods, under the aforesaid notifications, even if supplied to the railways.


(H. Rajesh Prasad)
Commissioner (GST)

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Dated: 30/01/2018

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- 2) Special Commissioner (PR), Department of Trade and Taxes, GNCT of Delhi, Vyapar Bhawan, I.P.Estate, New Delhi-02 for wide publicity of the contents of this circular.
- 3) Joint Director (IT), Department of Trade and Taxes, GNCT of Delhi, Vyapar Bhawan, I.P. Estate, New Delhi-02 for uploading the circular on the website of the Department.
- 4) The President/General Secretary, Sales Tax Bar Association (Regd.), Vyapar Bhawan, I.P. Estate, New Delhi.
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- 6) PS to the Commissioner, GST, Department of Trade and Taxes, GNCT of Delhi Vyapar Bhawan, I.P. Estate, New Delhi-02.
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30/01/2018
(Sadanand Sah)

Assistant Commissioner (Policy)-V