

5. Though a supplier providing the service to a body corporate under RCM may still be paying GST @ 5% on the services supplied to other non body corporate clients, to bring in greater clarity, serial No. 15 of the notification No. 13/2017-CT (R) dated 28.6.17 has been amended vide notification No. 29/2019-CT (R) dated 31.12.19 to state that RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier fulfils all the following conditions:-

- (a) is other than a body-corporate;
- (b) does not issue an invoice charging GST @12% (6% CGST + 6% SGST) from the service recipient; and
- (c) supplies the service to a body corporate.

6. It may be noted that the present amendment of the notification is merely clarificatory in nature and therefore for the period 01.10.2019 to 30.12.2019 also, clarification given at para 5 above shall apply, as any other interpretation shall render the RCM notification for the said service unworkable for that period which is not permissible in law.

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Standard Operating Procedure (SOP) to be followed by exporters - GST

Circular No.131/1/2020-GST

23rd January, 2020

As you are aware, several cases of monetisation of credit fraudulently obtained or ineligible credit through refund of Integrated Goods & Service Tax (IGST) on exports of goods have been detected in past few months. On verification, several such exporters were found to be non-existent in a number of cases. In all these cases it has been found that the Input Tax Credit (ITC) was taken by the exporters on the basis of fake invoices and IGST on exports was paid using such ITC.

2. To mitigate the risk, the Board has taken measures to apply stringent risk parameters-based checks driven by rigorous data analytics and Artificial Intelligence tools based on which certain exporters are taken up for further verification. Overall, in a broader time frame the percentage of such exporters selected for verification is a small fraction of the total number of exporters claiming refunds. The refund scrolls in such cases are kept in abeyance till the verification report in respect of such cases is received from the field formations. Further, the export consignments/shipments of concerned exporters are subjected to 100 % examination at the customs port.

3. While the verifications are caused to mitigate risk, it is necessary that genuine exporters do not face any hardship. In this context it is advised that exporters whose scrolls have been kept in abeyance for verification would be informed at the earliest possible either by the jurisdictional CGST or by Customs. To expedite the verification, the exporters on being informed in this regard or on their own volition should fill in information in the format attached as Annexure 'A' to this Circular and submit the same to their jurisdictional CGST authorities for verification by them. If required, the jurisdictional authority may seek further additional information for verification. However, the jurisdictional authorities must adhere to timelines prescribed for verification.

3.1 Verification shall be completed by jurisdiction CGST office within 14 working days of furnishing of information in proforma by the exporter. If the verification is not completed within this period, the jurisdiction officer will bring it the notice of a nodal cell to be constituted in the jurisdictional Pr. Chief Commissioner/Chief Commissioner Office.

3.2 After a period of 14 working days from the date of submission of details in the prescribed format, the exporter may also escalate the matter to the Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax by sending an email to the Chief Commissioner concerned (email IDs of jurisdictional Chief Commissioners are in Annexure B).

3.3 The Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax should take appropriate action to get the verification completed within next 7 working days.

4. In case, any refund remains pending for more than one month, the exporter may register his grievance at www.cbic.gov.in/issue by giving all relevant details like GSTIN, IEC, Shipping Bill No., Port of Export & CGST formation where the details in prescribed format had been submitted etc.. All such grievances shall be examined by a Committee headed by Member GST, CBIC for resolution of the issue.

5. It is requested that suitable trade notices may be issued to publicize the contents of this circular. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Annexure A

The details to be provided by the exporter for verification:

I. GST related data:

1. GSTIN –
2. Please provide the following details if the proprietor/director/partner of this entity is also associated with other entities.

S No	Name of Director/ Partner/Proprietor	Name of the other Entity Associated with	PAN (DIN if Director)	GSTIN	Registration status (Active / Inactive)
1					
2					
3					

3. Turnover of previous Financial Year -
(For New Entity till date Current Financial Year Turnover, if any)
4. Details of GST liability-

S No	Return Type	Declared aggregate liability for Previous Financial Year	Declared aggregate liability for Current Financial Year
1	GSTR 3B		
2	GSTR 1		

5. Details of ITC :

FY	ITC available in GSTR-2A	ITC availed in GSTR-3B	Mismatch	Details of payment or reversal of mismatched ITC
2017-18				
2018-19				
2019-20				

6. Details of refund claimed in previous Financial Year and current Financial Year-

S No	GSTIN	Type of Refund	ARN No. and Date	Amount		Authority from which refund claimed
				Claimed	Sanctioned	

7. Summary of E way Bills generated for relevant period.

S No	Supplies	No of E way Bill generated	HSNs	Taxable Amount
1	Inward			
2	Outward			

II. Financial Data

1. Bank Account details including the bank accounts of proprietor/partner/directors-

S. No.	Account Number	IFSC Code	Account Type	Name of Account Holder	PAN of Account Holder	Date of opening of Bank Account

- Bank Account statement of past 6 months in respect of the bank accounts provided above.
- BRCs/FIRCs evidencing receipt of foreign remittances against the exports made in past 1 year.
- Bank letter for up to date KYC of all bank accounts provided above.
- Top 5 creditors and Debtors (with GSTIN) from account(s) where refunds are proposed to be received and from which major business transactions (payments for supplies and receipts) are carried out.

III. Additional Data

- Copy of PAN.
- Copy of IEC
- Certificate of Incorporation or partnership deed
- Rent agreement of all premises along with geo-tagged photos
- Telephone Bill of past 3 months for all premises
- Electricity Bill of past 3 months for all premises
- Number of employees and the statement of PF evidencing employees
- Copy of the following schedules of the latest Income Tax Return:
 - Computation of depreciation on plant and machinery under the Income-tax Act
 - Computation of depreciation on other assets under the Income-tax Act

- (iii) Summary of depreciation on all the assets under the Income-tax Act

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Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal Circular No. 132/2/2020 - GST

18th March, 2020

Various representations have been received wherein the issue has been decided against the registered person by the adjudicating authority or refund application has been rejected by the appropriate authority and appeal against the said order is pending before the appellate authority. It has been gathered that the appellate process is being kept pending by several appellate authorities on the grounds that the appellate tribunal has been not constituted and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed. Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in absence of appellate tribunal for appeal to be made under section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act").

2. The matter has been examined in detail. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3.1 Appeal against an adjudicating authority is to be made as per the provisions of Section 107 of the CGST Act. The sub-section (1) of the section reads as follows: -

"107. (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person."

3.2 Relevant rules have been prescribed for implementation of the above Section. The relevant rule for the same is rule 109A of Central Goods and Services Tax Rules, 2017 which reads as follows

"109A. Appointment of Appellate Authority.- (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to -

- (a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;*
- (b) any officer not below the rank of Joint Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent,*

within three months from the date on which the said decision or order is communicated to such person."

3.3 Hence, if the order has been passed by Deputy or Assistant Commissioner or Superintendent, appeal has to be made to the appellate authority appointed who would not be an officer below the rank of Joint Commissioner. Further, if the order has been passed