

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 applicable *mutatis mutandis* on other cases involving supply of goods, where feed stock is retained by the recipient and remaining residual material is returned back to the supplier. The 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.

## 54

### **Classification of fertilizers supplied for use in the manufacture of other fertilizers at 5% GST rate.**

**Circular No. 54/28/2018-GST**

**9th August, 2018**

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, 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-Central Tax (Rate) dated 28.06.2017]. 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 Central 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.

## 55

### Taxability of services provided by Industrial Training Institutes (ITI).

Circular No. 55/29/2018- GST

10th August, 2018

Representations have been received requesting to clarify the following:

- (a) Whether GST is payable on vocational training provided by private ITIs in designated trades and in other than designated trades.
  - (b) Whether GST is payable on the service, provided by a private Industrial Training Institute for conduct of examination against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination.
2. With regard to the first issue, [Para 1(a) above], it is **clarified** that Private ITIs qualify as an educational institution as defined under para 2(y) of notification No. 12/2017-CT(Rate) if the education provided by these ITIs is approved as vocational educational course. The approved vocational educational course has been defined in para 2(h) of notification ibid to mean a course run by an ITI or an Industrial Training Centre affiliated to NCVT (National Council for Vocational Training) or SCVT (State Council for Vocational Training) offering courses in designated trade notified under the Apprenticeship Act, 1961; or a Modular employable skill course, approved by NCVT, run by a person registered with DG Training in Ministry of Skill Development. Therefore, services provided by a private ITI in respect of designated trades notified under Apprenticeship Act, 1961 are exempt from GST under Sr. No. 66 of notification No. 12/2017-CT(Rate). As corollary, services provided by a private ITI in respect of other than designated trades would be liable to pay GST and are not exempt.
3. With regard to the second issue, [Para 1(b) above], it is **clarified** that in case of designated trades, services provided by a private ITI by way of conduct of entrance examination against consideration in the form of entrance fee will also be exempt from GST [Entry