

of agricultural produce" from GST. Thus, the „services" provided by the commission agent for sale or purchase of agricultural produce is exempted. Such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered according to sub-clause (a) of sub-section (1) of section 23 of the CGST Act, if the supply of the agricultural produce, and /or other goods or services supplied by them are not liable to tax or wholly exempt under GST. However, in cases where the supply of agricultural produce is not exempted and liable to tax, such commission agent shall be liable for compulsory registration under sub-section

(vii) of section 24 of the CGST Act.

**Corrigendum to Circular No. 57/31/2018-GST dated
4th September, 2018 issued vide F. No. CBEC/20/16/4/2018-GST**

5th November, 2018

In para 9 of the Circular No. 57/31/2018-GST dated 4th September, 2018,
for

“However, in cases where the supply of agricultural produce is not exempted and liable to tax, such commission agent shall be liable for compulsory registration under sub-section (vii) of section 24 of the CGST Act.”

read,

“Further, according to clause (vii) of section 24 of the CGST Act, a person is liable for mandatory registration if he makes *taxable supply* of goods or services or both on behalf of other *taxable persons*. Accordingly, the requirement of compulsory registration for commission agent, under the said clause shall arise when both the following conditions are satisfied, namely: -

- (a) the principal should be a taxable person; and
- (b) the supplies made by the commission agent should be taxable.

Generally, a commission agent under APMC Act makes supplies on behalf of an agriculturist. Further, as per provisions of clause (b) of sub-section (1) of section 23 of the CGST Act an agriculturist who supplies produce out of cultivation of land is not liable for registration and therefore does not fall within the ambit of the term „taxable person“. Thus a commission agent who is making supplies on behalf of such an agriculturist, who is not a taxable person, is not liable for compulsory registration under clause (vii) of section 24 of the CGST Act. However, where a commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsorily under section 24 (iii) of the CGST Act.”

58

**Recovery of arrears of wrongly availed CENVAT credit under
the existing law and inadmissible transitional credit**

Circular No. 58/32/2018-GST

4th September, 2018

Various representations have been received seeking clarification on the process of recovery of arrears of wrongly availed CENVAT credit under the existing law and CENVAT credit wrongly

carried forward as transitional credit in the GST regime. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act'), hereby specifies the process of recovery of the said arrears and inadmissible transitional credit in the succeeding paragraphs.

2. The Board vide Circular No. 42/16/2018-GST dated 13th April, 2018, has **clarified** that the recovery of arrears arising under the existing law shall be made as central tax liability to be paid through the utilization of the amount available in the electronic credit ledger or electronic cash ledger of the registered person, and the same shall be recorded in Part II of the Electronic Liability Register (**FORM GST PMT-01**).
3. ¹[It may be noted that all such liabilities may be discharged by the taxpayers, either voluntarily in **FORM GST DRC-03** or may be recovered vide order uploaded in **FORM GST DRC-07**, and payment against the said order shall be made in **FORM GST DRC-03**. It is further **clarified** that the alternative method of reversing the wrongly availed CENVAT credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of **FORM GSTR-3B** would no longer be available to taxpayers. The applicable interest and penalty shall apply in respect of all such amounts, which shall also be paid in **FORM GST DRC-03**.]

Note:

1. Substituted vide Circular No. 88/07/2019-GST dated 01-02-2019 before it was read as "
"3. Currently, the functionality to record this liability in the electronic liability register is not available on the common portal. Therefore, it is **clarified** that as an alternative method, taxpayers may reverse the wrongly availed CENVAT credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of **FORM GSTR-3B**. The applicable interest and penalty shall apply on all such reversals which shall be paid through entry in column 9 of Table 6.1 of **FORM GSTR-3B**."

59

Clarification on refund related issues- regarding Circular No. 59/33/2018-GST

4th September, 2018

Various representations have been received seeking clarification on issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as detailed hereunder:

2. **Submission of invoices for processing of claims of refund:**
 - 2.1 It was **clarified** vide Circular No. 37/11/2018-GST dated 15th March, 2018 that since the refund claims were being filed in a semi-electronic environment and the processing was completely based on the information provided by the claimants, it becomes necessary that invoices are scrutinized. Accordingly, it was **clarified** that the invoices relating to inputs, input services and capital