



भारत सरकार
वित्त मंत्रालय, राजस्व विभाग
कार्यालय आयुक्त
सी.जी.एस.टी एवं केंद्रीय उत्पाद शुल्क, उज्जैन
२९, भरतपुरी प्रशासनिक क्षेत्र, उज्जैन (मप्र)-४५६०१०

फा0 संख्या 1 (Gen)19-04/GST/Trade Notice/2018-19/

उज्जैन, दिनांक 10.05.2018

इस पत्र के साथ मंत्रालय से प्राप्त अधिसूचना / परिपत्र / निर्देश व्यापार सूचना / जन सूचना मुख्यालय उज्जैन से जारी पत्र संख्या Public Notice No/. व्यापार सूचना संख्या /07/2018-19 dated 10.05.2018 की प्रति आयुक्तालय, सी.जी.एस.टी एवं केंद्रीय उत्पाद शुल्क, उज्जैन के निम्नलिखित अधिकारियों एवं अन्य की सूचना / मार्ग दर्शन एवं आवश्यक कार्यवाही हेतु अग्रेषित की जा रही है :

- 1 मुख्य आयुक्त, सी.जी.एस.टी एवं केंद्रीय उत्पाद शुल्क, भोपाल ।
- 2 आयुक्त, सी.जी.एस.टी एवं केंद्रीय उत्पाद शुल्क, मुख्यालय उज्जैन ।
- 3 आयुक्त, (अपील) सी.जी.एस.टी एवं केंद्रीय उत्पाद शुल्क, भोपाल ।
- 4 अपर / संयुक्त आयुक्त, सी.जी.एस.टी एवं केंद्रीय उत्पाद शुल्क, उज्जैन ।
- 5 सभी उप आयुक्त / सहायक आयुक्त, सी.जी.एस.टी एवं केंद्रीय उत्पाद शुल्क, उज्जैन (Statistics/Preventive/Review/Legal/Confidential/Technical(ST)) ।
- 6 सभी प्रभागीय उप / सहायक आयुक्त, सी.जी.एस.टी एवं केंद्रीय उत्पाद शुल्क, उज्जैन-I/II, रतलाम, पीथमपुर-I/II/III, खंडवा, पीथमपुर (सीमा शुल्क) ।
- 7 उप / सहायक आयुक्त (सीमा शुल्क) आई0सी0डी0 रतलाम, पीथमपुर, खंडवा ।
- 8 सभी मुख्यालय अधीक्षक (Statistics/Preventive/Review/Legal/Confidential/Technical(ST)) एवं प्रभागीय अधीक्षक (निवारक), केंद्रीय उत्पाद शुल्क एवं सीमा शुल्क ।
- 9 सभी अधीक्षक सीमा शुल्क, आई0सी0डी0 रतलाम, पीथमपुर, खंडवा ।
- 10 सभी राजपत्रित अधिकारी, सी.जी.एस.टी एवं केंद्रीय उत्पाद शुल्क, उज्जैन
- 11 समस्त व्यापार संघों / वाणिज्य संस्थानों / क्षेत्रीय सलाहकार समिति (Bhopal Zone) के सदस्यों एवं जन समस्या निवारण समिति के सदस्यों की सूचना हेतु ।
- 12 The Chairman, All India Manufacturers Organization, रतलाम, उज्जैन, पीथमपुर, खंडवा ।
- 13 गार्ड / मास्टर फाईल ।
- 14 नोटिस बोर्ड

अधीक्षक (तकनीकी)
सी.जी.एस.टी एवं केंद्रीय उत्पाद शुल्क,
मुख्यालय उज्जैन

संलग्न : उपरोक्तानुसार



भारतसरकार / Government of India

वित्त मंत्रालय राजस्वविभाग

Ministry of Finance, Department of Revenue कार्यालय आयुक्त / Office of the Commissioner

सी.जी.एस.टी.एवं केंद्रीय उत्पाद शुल्क

Central Goods Service Tax and Central Excise (CGST & CX)

२९, भरतपुरी प्रशासनिक क्षेत्र २९, Administrative Area, Bharatpuri

उज्जैन (मप्र)-४५६०१०/Ujjain (MP)-456010.

F.No. I(Gen) 19-04/GST/Trade Notice /18-19

Ujjain. Date. 10.05.2018

व्यापार सूचना संख्या 07/2018-19

उज्जैन दिनांक 10.05.2018

Subject:- Joint Venture -taxable services provided by the members of the Joint Venture (JV) to the JV and vice versa and inter se between the members of the JV Reg/-

Attention of the Trade and Industry is invited to the Circular No. 35/9/2018 GST dated 05.03.2018 issued under F.No. B-1/20/2016-TRU by the Technical Officer (TRU) Ministry of Finance Department of Revenue Tax research Unit Policy Wing New Delhi in respect of "Joint Venture -taxable services provided by the members of the Joint Venture (JV) to the JV and vice versa and inter se between the members of the JV" (Copy enclosed)

2 The contents of the aforesaid Circular may please be brought to the notice of members of your association in particular and public in general.

Encl- As Above

(Neerav Kumar Mallick)

आयुक्त

F. No. B-1/20/2016-TRU

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

**Room No. 146G, North Block,
New Delhi, 5th March 2018**

To,

The Principal Chief Commissioners/Chief Commissioners/ Principal
Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

**Subject: Joint Venture ---taxable services provided by the members of the Joint
Venture (JV) to the JV and vice versa and inter se between the members of the JV-reg**

I am directed to say that in the Service Tax regime, CBEC vide Circular No. 179/5/2014 – ST issued from F.No. 179/5/2014-ST dated 24 September 2014 had clarified that if cash calls are merely transaction in money, then they are excluded from the definition of service provided in Section 65B (44) of the Finance Act, 1994. Whether a cash call is merely a transaction in money and hence not in the nature of consideration for taxable service, would depend on the terms of the Joint Venture Agreement, which may vary from case to case. The Circular clarified that cash calls, sometimes, could be in the nature of advance payments made by members towards taxable services received from joint venture(JV); and that payments made out of cash calls pooled by a JV towards taxable services received from a member or a third party is in the nature of consideration and hence attracts Service Tax. The Circular further stated that JV being an unincorporated temporary association constituted for the limited purpose of carrying out a specified project within a time frame, a comprehensive examination of the various JV agreements (at times, there could be number of inter se agreements between members of the JV) holds the key to understanding of the taxation of transactions involving taxable services between the JV and its members or inter-se between the members of a JV. Therefore, officers in the field formations were advised to carefully examine the leviability of service tax with reference to the specific terms/clauses of each JV agreement.

2. In the Service Tax Law, service was defined as an activity carried out by a person for another for consideration [Section 65B(44) of the Finance Act 1994]. Explanation 3 to the said definition stated than an unincorporated association or a body of persons as the case may be, and a member thereof shall be treated as distinct persons.

3. GST is levied on intra-State and inter-State supply of goods and services. According to section 7 of CGST Act, 2017, the expression “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business, and includes activities specified in Schedule II to the CGST Act, 2017. The definition of “business” in section 2(17) of CGST Act states that “*business*” includes provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members. The term person is defined in section 2(84) of the CGST Act, 2017 to include an association of persons or a body of individuals, whether incorporated or not, in India or outside India. Further, Schedule II of CGST Act, 2017 enumerates activities which are to be treated as supply of goods or as supply of services. It states in para 7 that *supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration* shall be treated as supply of goods. A conjoint reading of the above provisions of the law implies that supply of services by an unincorporated association or body of persons (AOP) to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of services. The above entry in Schedule II is analogous to and draws strength from the provision in Article 366(29A)(e) of the Constitution according to which a tax on the sale or purchase of goods includes a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

4. Therefore, the law with regard to levy of GST on service supplied by member of an unincorporated joint venture (JV) to the JV or to other members of the JV, or by JV to the members, essentially remains the same as it was under service tax law. Thus, it is clarified that the clarification given vide Board Circular No. 179/5 2014 – ST dated 24.09.2014 ibid in the context of service tax is applicable for the purpose of levy of GST also. It is reiterated that the question whether cash calls are taxable or not will entirely depend on the facts and circumstances of each case. ‘Cash calls’ are raised by an operating member of the joint venture on other members in proportion to their participating interests in the joint venture (unincorporated) to meet the expenditure on the operations to be carried out as per the approved work programme and budget. Taxability of cash calls can be further explained by the following illustrations:

Illustration A: There are 4 members in the JV including the operating member and each one contributes Rs 100 as part of their share. A total amount of Rs 400 is collected. The operating member purchases machinery for Rs 400 for the JV to be used in oil production.

Illustration B: There are 4 members in the JV including the operating member and each one contributes Rs 100 as part of their share. A total amount of Rs 400 is collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the JV.

4.1 Illustration A will not be the subject matter of 'ST/GST' for the reason that the operating member is not carrying out an activity for another for consideration. In Illustration A, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.

4.2 On the other hand, in Illustration B, the operating member uses its own machinery and is therefore providing 'service' within the scope of supply of CGST Act, 2017. This is because in this scenario, the operating member is recovering the cost appropriated towards machinery and services from the other JV members in their participating interest ratio.

5. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Harsh Singh
Technical Officer (TRU)
Email: harshsingh.irs@gov.in
Tel: 011-23095543