



भारतसरकार /Government of India
वित्तमंत्रालयराजस्वविभाग
Ministry of Finance, Department of Revenue कार्यालयआयुक्त
/Office of the Commissioner
सी.जी.एस.टी.एवंकेंद्रीयउत्पादशुल्क
Central Goods Service Tax and Central Excise (CGST & CX)
२९, भरतपुरीप्रशासनिकक्षेत्र 29, Administrative Area, Bharatpuri
उज्जैन (मप्र)-४५६०१०/Ujjain (MP)-456010.

F.No.I(Gen) 19-04/GST/Trade Notice /19-20/

Ujjain, Date. 23.10.2019

इस पत्र के साथ मंत्रालय से प्राप्त अधिसूचना / परिपत्र / निर्देश व्यापार सूचना / जन सूचना / मुख्यालय उज्जैनसे जारी पत्र संख्या Trade Notice No./व्यापार सूचना संख्या 23/2019-20 dated 22.10.2019 की प्रति आयुक्तालय, सी. जी. एस. टी. एवं केन्द्रीय 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 केन्द्रीय उत्पाद शुल्क, भोपाल ।
2. आयुक्त, सी. जी. एस. टी. एवं केन्द्रीय उत्पाद शुल्क, मुख्यालय, उज्जैन।
3. आयुक्त, (अपील)सी. जी. एस. टी. एवं केन्द्रीय उत्पाद शुल्क, इंदौर ।
4. आयुक्त,सीमाशुल्क,इंदौर।
5. आयुक्तलेखा परीक्षा,इंदौर।
6. अपर / संयुक्त आयुक्त, सी. जी. एस. टी. एवं केन्द्रीय उत्पाद शुल्क, उज्जैन।
7. सभी उप आयुक्त /सहायक आयुक्त, सी. जी. एस. टी. एवं केन्द्रीय उत्पाद शुल्क, मुख्यालयउज्जैन उज्जैनमुख्यालयशाखा(सांख्यिकी / निवारक / समीक्षा / कानूनी / गोपनीय / तकनीकी / लेखा परीक्षा/ न्याय निर्णयन-1/न्याय निर्णयन-॥)
8. सभी प्रभागीय उप आयुक्त/सहायक आयुक्त, सी. जी. एस. टी. एवं केन्द्रीय उत्पाद शुल्क, पीथमपुर- १/२/३,उज्जैन-१/२, रतलाम,खंडवा।
9. समस्त व्यापार संघों / वाणिज्य संस्थानों / क्षेत्रीय सलाहकार समिति (Bhopal Zone) के सदस्यों एवं जन समस्या निवारण समिति के सदस्यों की सूचना हेतु ।
10. The Chairman, All India Manufacturers Organizations, Ujjain, Pithampur, Ratlam, Khandwa.
11. Webmaster, Hqrs. Ujjain.
12. गार्ड / मास्टर फाईल ।
13. नोटिस बोर्ड

संलग्न : उपरोक्तानुसार

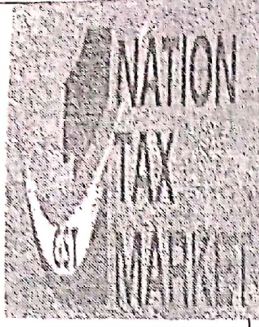
20/2/19

सहायक आयुक्त

सी. जी. एस. टी. एवं केन्द्रीय उत्पाद शुल्क,

मुख्यालय उज्जैन

01/2



भारतसरकार / Government of India
वित्तमंत्रालय राजस्व विभाग
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 29, Administrative Area, Bharatpuri
उज्जैन (मप्र)-४५६०१०/Ujjain (MP)-456010.

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Ujjain, Date. 22.10.2019

व्यापार सूचना संख्या 23/2019-20

उज्जैन दिनांक 22.10.2019

Subject:- Clarification on issue of GST on Airport levies — reg.

1 व्यापार एवं उद्योग वर्ग का ध्यान परिपत्र क्रमांक 115/34/2019-GST दिनांक 11.10.2019 पर आमंत्रित किया जाता है जो की फाइल क्रमांक 354/136/2019-TRU- भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, सीबीआईसी, नई दिल्ली द्वारा "Clarification on issue of GST on Airport levies" के संबंध में जारी किया गया है (प्रति मलग्र)।

2 उपरोक्त परिपत्र क्रमांक 115/34/2019-GST दिनांक 11.10.2019 की विषयवस्तु को आपके एसोसिएशन के सदस्यों को विशेष रूप से और सामान्य जन के ध्यान में लाये जाने का अनुरोध है।

संलग्न : उपरोक्त अनुसार

65457

(डॉ. संदीप श्रीवास्तव)

प्रधान आयुक्त

F. No. 354/136/2019-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

Room No. 146G, North Block,
New Delhi, the 11th October 2019

To,

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

Madam/Sir,

Subject: Clarification on issue of GST on Airport levies – reg.

Various representations have been received seeking clarification on issues relating to GST on airport levies and to clarify that airport levies do not form part of the value of services provided by the airlines and consequently no GST should be charged by airlines on airport levies. In order 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 in the succeeding paras.

2. Passenger Service Fee (PSF) is charged under rule 88 of Aircraft Rules, 1937 according to which the airport licensee may collect PSF from embarking passengers at such rates as specified by the Central Government. According to the rule the airport license shall utilize the said fee for infrastructure and facilitation of the passengers. User Development Fee (UDF) is levied under rule 89 of the Aircraft rules 1937 which provides that the licensee may levy and collect, at a major airport, the User Development Fee at such rate as may be determined under clause (b) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008.

2.1 Though the rule does not prescribe the specific purpose of levy and whether it is to be charged from the airlines or the passengers. However, it is seen from section 2(n) of Airports Economic Regulatory Authority of India Act, 2008, that the authority which manages the airport is eligible to levy and charge UDF from the embarking passengers at any airport.

2.2 Further, Director General of Civil Aviation has clarified vide order No. AIC Sl. No. 5/2010 dated 13.09.2010 that in order to avoid inconvenience to passengers and for smooth and orderly air transport/airport operations, the User Development Fees (UDF) shall be collected from the passengers by the airlines at the time of issue of air ticket and the same shall be remitted to Airports Authority of India in the line system/procedure in vogue. For

this, collection charges of Rs. 5/- shall be receivable by the airlines from AAI, which shall not to be passed on to the passengers in any manner.

2.3 The above facts clearly indicate that PSF and UDF are charged by airport operators for providing the services to passengers.

2.4 Section 2(31) of the CGST Act states that “consideration” in relation to the supply of goods or services or both includes any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person. Thus, PSF and UDF charged by airport operators are consideration for providing services to passengers.

2.5 Thus, services provided by an airport operator to passengers against consideration in the form of UDF and PSF are liable to GST. UDF was also liable to service tax. It is also clear from notification of Director General of Civil Aviation AIC Sl. No. 5 /2010 dated 13.09.2010, which states that UDF approved by MoCA, GoI is inclusive of service tax. It is also seen from the Air India website that the UDF is inclusive of service tax. Further in order No. AIC S. Nos. 3/2018 and 4/2018, both dated 27.2.2018, it has been laid down that GST is applicable on the charges of UDF and PSF.

2.6 PSF and UDF being charges levied by airport operator for services provided to passengers, are collected by the airlines as an agent and is not a consideration for any service provided by the airlines. Thus, airline is not responsible for payment of ST/GST on UDF or PSF provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules. It is the licensee, that is the airport operator (AAI, DIAL, MIAL etc) which is liable to pay ST/GST on UDF and PSF.

2.7 Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules. Rule 33 of the CGST rules provides that the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely, -

(i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;

(ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and

(iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

“Pure agent” has been defined to mean a person who-

(a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both; (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply; (c) does not use for

his own interest such goods or services so procured; and (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

2.8 Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers. The airline shall not take ITC of GST payable or paid on PSF and UDF. The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator. The amount so recovered will be excluded from the value of supplies made by the airline to its passengers. In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules. The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them.

2.9 The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of ST/GST, there is no question of their not paying ST/GST collected by them to the Government.

2.10 The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

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

Yours Faithfully,

Rachna
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Tel: 011-23095558