



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 26/2019-20 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-।/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 संघो / वाणिज्य संस्थानों / क्षेत्रीय सलाहकार समिति (Bhopal Zone) के सदस्यो एवं जन समस्या निवारण समिति के सदस्यों की सूचना हेतू ।
10. The Chairman, All India Manufacturers Organizations, Ujjain, Pithampur, Ratlam, Khandwa.
11. Webmaster, Hqrs. Ujjain.
12. गार्ड / मास्टर फाईल ।
13. नोटिस बोर्ड

संलग्न : उपरोक्तानुसार

20/10/19

सहायक आयुक्त
सी. जी. एस. टी. एवं केन्द्रीय उत्पाद शुल्क.
मुख्यालय उज्जैन

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भारतसरकार /Government of India
वित्तमंत्रालयराजस्वविभाग
Ministry of Finance, Department of Revenueकार्यालयआयुक्त /Office
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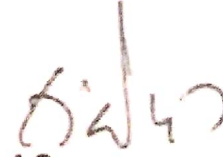
व्यापार सूचनासंख्या 26/2019-20

उज्जैन दिनांक 22.10.2019

Subject:-Clarification regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM)- industry – reg.

- 1 व्यापार एवं उद्योग वर्ग का ध्यान परिपत्र क्रमांक 118/37/2019-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 regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM)- industry" के संबंध में जारी किया गया है (प्रति सलग्न)।
- 2 उपरोक्त परिपत्र क्रमांक 118/37/2019-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 : ऊपरोक्त अनुसार


(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. 156, North Block,
New Delhi, the 11th October 2019

To,

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

Madam/Sir,

Subject: Clarification regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry – reg.

Various representations have been received from trade and industry seeking clarification on determination of place of supply in case of supply of software/design services by a supplier located in taxable territory to a service recipient located in non-taxable territory by using the sample hardware kits provided by the service recipient.

2. It is stated that a number of companies that are part of the growing Electronics Semi-conductor and Design Manufacturing (ESDM) industry in India are engaged in the process of developing software and designing integrated circuits electronically for customers located overseas. The client/customer electronically provides Indian development and design companies with design requirements and Intellectual Property blocks ("IP blocks", reusable units of software logic and design layouts that can be combined to form newer designs). Based on these, the Indian company digitally integrates the various IP blocks to develop the software and the silicon or hardware design. These designs are communicated abroad (in industry standard electronic formats) either to the customer or (on behest of the customer) a manufacturing facility for the manufacture of hardware based on such designs.

2.1 In addition, the software developed is also integrated upon or customized to this hardware. On some occasions, samples of such prototype hardware are then provided back to the Indian development and design companies to test and validate the software and design that has been developed to ensure that it is error free.

2.2 The trade has requested clarification on whether provision of hardware prototypes and samples and testing thereon lends these services the character of performance-based services in respect of "goods required to be made physically available by the recipient to the provider".

3. The provisions relating to determination of place of supply as contained in the Integrated Goods & Services Tax Act, 2017 (hereinafter referred to as “the IGST Act”) have been examined. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as “the CGST Act”) clarifies the same as below.

4. In contracts where service provider is involved in a composite supply of software development and design for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the service provider. The service provider is not involved in software testing alone as a separate service. The testing of software/design is aimed at improving the quality of software/design and is an ancillary activity. The entire activity needs to be viewed as one supply and accordingly treated for the purposes of taxation. Artificial vivisection of the contract of a composite supply is not provided in law. These cases are fact based and each case should be examined for the nature of supply contracted.

4.1 Therefore, it is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.

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

Yours Faithfully,

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