

CBIC issues clarifications on certain services pursuant to recommendations of 45th GST Council Meeting

Pursuant to the recommendations of GST Council in its 45th meeting, CBIC has provided clarifications on various issues as follows:

Services	Interpretation/Analysis	Clarification
Services by cloud kitchens /central kitchens	Restaurant services includes takeaway services and door delivery of food. Service by an entity even if it is exclusively by way of takeaway or door delivery or through or from any restaurant would be covered by restaurant service. This would thus cover services provided by cloud kitchens/central kitchens.	Service provided by way of cooking and supply of food by cloud kitchens/central kitchens are covered under restaurant service and attracts 5% GST.
Supply of ice cream by ice cream parlours	Ice-cream parlours do not engage in any form of cooking at any stage. Their activity entails supply of ice cream as goods (a manufactured item) and not as a service, even if certain ingredients of service are present.	Where ice cream parlours sell already manufactured ice-cream, it is supply of ice cream as goods and not as a service, even if the supply has certain ingredients of service. Hence, ice cream sold by a parlour or any similar outlet would attract GST at the rate of 18%.

GST on overloading charges at toll plaza	Overloaded vehicles were allowed to ply on the national highways after payment of fees basis the base rate. In essence overloading fees are effectively higher toll charges.	Overloading charges at toll plazas would get the same treatment as given to toll charges.
Renting of vehicles to State Transport Undertakings and Local Authorities	Services where the vehicles are rented or given on hire to State Transport Undertakings or Local Authorities are eligible for the said exemption irrespective of whether such vehicles are run on routes, timings as decided by the State Transport Undertakings or Local Authorities and under effective control of State Transport Undertakings or Local Authorities which determines the rules of operation or plying of vehicles.	Services of Renting of vehicles to State Transport Undertakings and Local Authorities are eligible for the said exemption.

<p>Services by way of grant of mineral exploration and mining rights</p>	<p>The expression “the same rate of tax as applicable on supply of like goods involving transfer of title in goods” applies in case of leasing or renting of goods. In case of grant of mining rights, there is no leasing or renting of goods. Hence, the said entry does not extend to grant of mining rights which is an entirely different activity.</p>	<p>Even if the rate schedule did not specifically mention the service by way of grant of mining rights, during the period 1 July 2017 to 31 December 2018, it was taxable at 18%.</p>
<p>Admission to indoor amusement parks having rides etc.</p>	<p>Clarification regarding applicable rate of GST on services provided by indoor amusement parks/family entertainment centres, and scope of the word ‘amusement park’ under Entry 34(iii) of Notification No. 11/2017-CTR</p>	<p>It has been clarified that the admission to a place having casino or race club even if it provides certain other activities or admission to a sporting event like IPL attracts GST @28%.</p> <p>All other cases of admission to amusement parks, or theme park, etc., or any place having joy rides, merry-go rounds, go-carting, etc., whether indoor or outdoor, so long as no access is provided to a casino or race club attracts GST @18%.</p>
<p>Services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption</p>	<p>The expression ‘food and food products’ excludes alcoholic beverages for human consumption. In common parlance, even alcoholic liquor is also not considered as food.</p>	<p>Services by way of job work in relation to manufacture of alcoholic liquor for human consumption are not eligible for the GST rate of 5% prescribed under the said entry. Such job work would attract GST at the rate of 18%.</p>

Our comments

Even though the circular attempts to clarify GST rates for various services, legal sanctity of the same is questionable. Besides, there could be instances wherein the rates specified could be contrary to the rates determined by various advance ruling authorities in similar matter. There is a possibility that instead of providing due clarity and reducing the litigation, the circular might add on to already existing litigations.