

CBIC : Free moulds & dies sent by OEM to component manufacturer non-taxable, no ITC reversal

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CBIC inter alia clarifies that no GST shall be applicable on moulds & dies sent free of cost by original equipment manufacturer to unrelated component manufacturer as same does not constitute supply absent any consideration; In such case, there is no requirement of reversing ITC by OEM since moulds & dies are provided on FOC basis in course or furtherance of component manufacturer's business, and value of such moulds & dies shall not be included in value of components supplied by component manufacturer; In case of servicing of cars where value of both supply of goods (spare parts) and services (labour) is shown separately, CBIC clarifies that *taxability of supply would have to be determined on case to case basis looking at the facts and circumstances of each case* but where value of goods and services involved in a supply are shown separately, goods and services would be liable to tax at rates as applicable thereto separately; As regards requirement of e-Way Bills in certain scenarios, CBIC states that if goods transit through a second State while moving from one place in a State to another place in same State, an e-Way Bill is required to be generated; Where goods move from DTA unit to SEZ unit or vice versa located in same State, there is no requirement to generate an e-Way Bill if same has been exempted under Rule 138(14)(d) of CGST Rules : CBIC Circulars

CBIC has issued clarification vide Circulars No. 47/21/2018-GST inter alia w.r.t. applicability of GST and requirement of e-Way Bill in certain scenarios. The following has been clarified

i) Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?

It has been clarified that the moulds and dies owned by OEM sent to unrelated / distinct component manufacturer on FOC basis, do not constitute a Supply absent any consideration and that there is no requirement for reversal of ITC availed on such moulds and dies by OEM;

CBIC has further clarified that value of FOC moulds and dies does not merit inclusion in the value of supply made by component manufacturer in terms of Section 15(2)(b) of CGST Act, however if the contract was for supply of components by using moulds / dies belonging to component manufacturer but same have been supplied by OEM on FOC basis, the amortised cost of such moulds and dies shall be added to value of components and in such cases, OEM will be required to reverse ITC.

ii) How is servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, to be treated under GST?

The taxability shall be determined on case to case basis looking at the facts and circumstances of each case;

Where a supply involves both goods and services and value thereof is shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.

iii) In case of auction of tea, coffee, rubber etc., whether the books of accounts are required to be maintained at every place of business by the principal and the auctioneer, and whether they are eligible to avail input tax credit?

For purpose of auction of tea, coffee, rubber etc. the principal and the auctioneer may declare the warehouses where such goods are stored, as their additional place of business and buyer too will be required to disclose said warehouse as his additional place of business if he wants to store the purchased goods therein. For purpose of supply of tea through a private treaty, the principal and an auctioneer may

also comply with said provision;

Such principal and auctioneer are required to maintain the books of accounts relating to each and every place of business in that place itself in terms of first proviso to Section 35(1) of CGST Act, however in case of any difficulties, they may maintain the books of accounts relating to additional place of business at their principal place of business;

As regards ITC, CBIC has clarified that principal and auctioneer shall be eligible to avail the same subject to fulfillment of other provisions of CGST r/w Rules made thereunder.

iv) In case of transportation of goods by railways, whether goods can be delivered even if the e-way bill is not produced at the time of delivery?

Railways shall not deliver the goods unless the e-Way Bill is produced at the time of delivery, in terms of proviso to Rule 138(2A) of CGST Rules.

v) Whether e-way bill is required in the following cases- (i) Where goods transit through another State while moving from one area in a State to another area in the same State. (ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State.

CBIC has stated that if goods transit through a second State while moving from one place in a State to another in the same State, an e-Way Bill is required to be generated, whereas no such e-Way Bill shall be required in case of movement of goods from DTA unit to SEZ unit or vice versa, if same is exempted under Rule 138(14)(d) of CGST Rules.