



## The Institute of Chartered Accountants of India

### GST & Indirect Taxes Committee

## GOODS & SERVICES TAX UPDATE - 254

### Clarification regarding applicability of GST on certain services

**1. Applicability of GST on penal charges being levied by the Regulated Entities (REs) in view of RBI instructions dated 18.08.2023 directing such REs to levy penal charges in place of penal interest**

Regulated Entities (REs) such as banks and non-banking financial companies (NBFCs) have been instructed, vide RBI instructions dated 18.08.2023, to discontinue the use of penal interest for non-compliance with loan terms. As per the instructions, instead of penal interest, REs are to levy penal charges for non-compliance with loan terms. These instructions are effective from 01.01.2024, and do not apply to credit cards, external commercial borrowings, trade credits and structured obligations which are covered under product specific directions.

Penal charges levied by REs, in compliance with RBI directions dated 18.08.2023, are essentially in the nature of charges for breach of terms of contract and hence, fall within the ambit of the clarification issued by *Circular No. 178/10/2022-GST dated 03.08.2022* wherein it was clarified that certain payments such as liquidated damages for breach of contract are not a consideration for tolerating an act or situation. It has been further clarified that the essence of a contract is its 'performance' and not its 'breach'.

Hence, it has been clarified that no GST is payable on the penal charges levied by Regulated Entities, in compliance with RBI directions dated 18.08.2023, for non-compliance with material terms and conditions of loan contract by the borrower.

**2. Whether GST exemption under Sl. No. 34 of Notification No. 12/2017-CT(R) dated 28.06.2017 is available to payment aggregators in relation to settlement of an amount, up to two thousand rupees in a single transaction, transacted through credit card, debit card, charge card or other payment card services?**

Payment Aggregators (PAs) are entities that facilitate e-commerce sites and merchants to accept various payment instruments from their customers without the need for the e-commerce sites and merchants to create a separate payment integration system of their own. In the process, PAs receive payments from customers, pool and transfer them on to the merchants within a specified time period.

Clause 8 of the RBI's Guidelines on Regulation of Payment Aggregators and Payment Gateways dated 17.03.2020, pertaining to 'Settlement and Escrow Account Management' makes it clear that the PAs receive payments from customers in an escrow account, and are obligated to do the final settlement with the merchant within time periods specified by RBI. Therefore, the RBI regulated PAs, involved in the settlement process of making payments to the merchant, are covered by the second part of the definition of acquiring bank, i.e. "any other person, who makes the payment to any person who accepts such card" and hence, fall within the definition of acquiring bank, for the purpose of the exemption under Sl. No. 34 of *Notification No. 12/2017-CT(R) dated 28.06.2017*, as they make the payment to the merchants who accept credit cards, debit cards, charge cards or other payment card services.

PAs are defined as entities who receive payments from customers, pool and transfer them on to the merchants within a specified time period. On the other hand, PGs are defined as entities that provide technology infrastructure to route and facilitate processing of an online payment transaction without any involvement in handling of funds.

It has been clarified that GST exemption under Sl. No. 34 of *Notification No. 12/2017-CT(R) dated 28.06.2017* is available to RBI regulated PAs in relation to settlement of an amount, up to two thousand rupees in a single transaction, transacted through credit card, debit card, charge card or other payment card services, as PAs fall within the definition of 'acquiring bank' given in the Explanation to the said exemption entry. It is also clarified that this exemption is limited to payment settlement function only, which involves handling of money, and does not cover Payment Gateway (PG) services.

### **3. Regularizing payment of GST on research and development services provided by Government Entities against consideration in the form of grants received from Government Entities**

*Notification No. 08/2024-CT(Rate) dated 8.10.2024* exempted research and development services provided by Government Entities or research associations, universities, colleges or other institutions, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961, against consideration in the form of grants with effect from 10.10.2024.

As recommended by the 55<sup>th</sup> GST Council, the payment of GST on the supply of research and development services by Government Entities against grants received from the Government Entities is regularized for the period 01.07.2017 to 09.10.2024, on 'as is where is'.

### **4. Regularizing payment of GST on skilling services provided by Training Partners approved by the National Skill Development Corporation.**

*Vide Notification No. 08/2024 dated 08.10.2024*, the exemption available to the skilling services provided by Training Partners approved by National Skill Development

Corporation was withdrawn w.e.f. 10.10.2024.

*Vide Notification No. 06/2025-CT(Rate) dated 16.01.2025*, the earlier exemption to skilling services provided by Training Partners approved by the National Skill Development Corporation has been reinstated with effect from 16.01.2025.

Hence, as recommended by the GST Council, the payment of GST on services provided by Training Partners approved by the National Skill Development Corporation, which were exempt prior to 10.10.2024, is regularized for the period 10.10.2024 to 15.01.2025, on 'as is where is' basis

**5. Applicability of GST on facility management services provided to Municipal Corporation of Delhi (MCD) Headquarters.**

Sr. No. 3A of *Notification No. 12/2017-CT(R) dated 28.06.2017* provides exemption to composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Government or local authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of The Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of The Constitution of India.

MCD is receiving the services of facility management such as housekeeping, civil maintenance, furniture maintenance and horticulture agency for the upkeep of their office. These services are not supplied in relation to performing any functions entrusted to a Municipality under Article 243W of The Constitution of India. Such services are not covered under the scope of entry at Sr. No. 3A of the *Notification No. 12/2017-CT(R) dated 28.06.2017*.

It has been clarified that GST is applicable on the services provided by facility management agency to MCD, Delhi HQ for upkeep of its head quarter building at applicable rates as these services are not covered under the scope of entry at Sr. No. 3A of the *Notification No. 12/2017-CT(R) dated 28.06.2017*.

**6. Whether Delhi Development Authority (DDA) is a local authority as per section 2(69) of the CGST Act, 2017?**

Sr. No. 5 of *Notification No. 13/2017-CT(R) dated 28.06.2017*, services supplied by local authority to a business entity are taxable on Reverse Charge (RCM) basis.

Local authority under section 2(69) of the CGST Act, 2017 has been defined as a "*Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund*".

It means an authority which is similar to the elected self-governing body such as Municipal Committee and which is entrusted with the control and management of municipal or local

fund can be termed as local authority.

DDA does not meet the requirement of local authority as per section 2(69) of the CGST Act, 2017. It has been clarified that DDA cannot be treated as local authority under GST law.

**7. Regularizing payment of GST on Reverse Charge (RCM) basis on renting of commercial property by unregistered person to a registered person for taxpayers registered under composition levy**

Vide *Notification No.09/2024-CT(R) dated 08.10.2024*, effective from 10.10.2024, renting of immovable property other than residential dwelling (commercial property) by unregistered person to registered person was brought under reverse charge by inserting an entry at Sr. No. 5AB of the notification No. 13/2017-CTR dated 28.06.2017.

However, vide *Notification No. 07/2025- CT(Rate) dated 16.01.2025*, taxpayers registered under composition levy have been excluded from entry 5AB.

Thus, as recommended by the 55<sup>th</sup> GST Council, payment of GST on Reverse Charge (RCM) basis on renting of immovable property other than residential dwelling (commercial property) by unregistered person to registered person under composition levy has been regularized for the period from 10.10.2024 to 15.01.2025 on 'as is where is' basis.

**8. Regularizing payment of GST on certain support services provided by an electricity transmission or distribution utility**

The services incidental or ancillary to the supply of transmission and distribution of electricity were exempted vide *Notification No. 08/2024-CT(R) dated 08.10.2024*, with effect from 10.10.2024 by amending *Notification No. 12/2017- CTR dated 28.06.2017*.

These incidental or ancillary services to the supply of transmission or distribution of electricity supplied by transmission or distribution utilities are now covered under the said exemption entry vide *Notification No. 6/2025-CTR dated 16.01.2025*.

Thus, as recommended by the 55<sup>th</sup> GST Council, the payment of GST on certain incidental or ancillary services to the supply of transmission or distribution of electricity supplied by an electricity transmission or distribution utility has been regularized for the period 10.10.2024 to 15.01.2025 on 'as is where is' basis.

**9. Regularizing the payment of GST on services provided by M/s Goethe Institute/Max Mueller Bhawans**

Prior to 1<sup>st</sup> April, 2023, the Institutes did not collect GST from their students nor did they pay GST to Government as they were under the *bonafide* belief that their activities are

exempt from GST.

Thus, as recommended by the 55<sup>th</sup> GST Council, payment of GST on services supplied by Goethe Institute/Max Mueller Bhawans is hereby regularized for the period from 01.07.2017 to 31.03.2023 on 'as is where is' basis.

**[Circular No. 245/02/2025-GST dt. 28.01.2025](#)**

***Vice – Chairman  
GST & Indirect Taxes Committee***

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GST & Indirect Taxes Committee***

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