



Issue 14
16th July 2017

*“Taxation is the price which civilized communities
pay for the opportunity of remaining civilized ”*

— Albert Bushnell Hart

NOMINAL INDEX

ATLAS FIRETECH PVT. LTD. Vs STATE OF HARYANA	(HTT)	34
BALAJI INFRATECHON PVT. LTD. Vs STATE OF HARYANA	(HTT)	29
BAMBINO AGRO INDUSTRIES LTD. Vs STATE OF HARYANA	(HTT)	31
FOODGRAINS ASSOCIATION (VYAPAR MANDAL)	FCT (HY)	41
GUPTA ELECTRICAL HOUSE Vs STATE OF HARYANA	(HTT)	21
HARYANA FOILS LIMITED Vs STATE OF HARYANA	(HTT)	25
IAN MACLEOD DISTILLERS INDIA PVT. LTD.	FCT (HY)	38
J.R.M. STEELS P. LTD. Vs STATE OF HARYANA	(HTT)	17
MANI JEWELS Vs STATE OF PUNJAB	(PB. TBNL.)	9
RAJBIR SINGH CONTRACTOR Vs STATE OF HARYANA	(HTT)	23
S.K. ENTERPRISES Vs STATE OF HARYANA	(HTT)	36
SANT STORE Vs STATE OF PUNJAB	(PB. TBNL.)	7
SHREE FOOD PROCESSORS Vs STATE OF PUNJAB	(PB. TBNL.)	12
SHRI RAM INDUSTRIAL Vs 19STATE OF HARYANA	(HTT)	19
SSG FABRICS Vs UNION OF INDIA AND OTHERS	(P&H)	5

NOTIFICATION

CENTRAL

ASSIGNING JURISDICTION AND POWER TO OFFICERS OF VARIOUS DIRECTORATES	14/2017	01.07.2017	43
AMENDING CGST RULES NOTIFICATION 10/2017-CT DT 28.06.2017	15/2017	01.07.2017	44
AMENDING CGST RULES NOTIFICATION 10/2017-CT DT 28.06.2017	16/2017	07.07.2017	45

HARYANA

HARYANA ONE TIME SETTLEMENT SCHEME FOR RECOVERY OF OUTSTANDING DUES, 2017	20/2017	22.06.2017	46
FAQS RELATING TO THE HARYANA ONE TIME SETTLEMENT SCHEME FOR RECOVERY OF OUTSTANDING ARREARS, 2017	1341/AETC(P/R)	27.06.2017	50
DATE OF COMING INTO FORCE THE PROVISIONS OF SECTIONS 1, 2, 3, 4, 5, 10, 22, 23, 24, 25, 26, 27, 28, 29, 30, 139, 146, 164 AND 165 OF THE GST ACT	21/2017	22.06.2017	53
APPOINTS THE EXCISE AND TAXATION COMMISSIONER, HARYANA TO BE THE COMMISSIONER OF STATE TAX UNDER HGST ACT	22/2017	22.06.2017	54
APPOINTS THE ADDITIONAL EXCISE & TAXATION COMMISSIONERS & OTHERS UNDER THE GST ACT	23/2017	22.06.2017	55
APPOINTS THE TAXATION INSPECTORS OF THE HGST ACT	24/2017	22.06.2017	56
THE HARYANA COMPOSITION & REGISTRATION RULES UNDER HGST ACT	25/2017	22.06.2017	57
NOTIFICATION REGARDING COMMON PORTAL OF THE HGST ACT	26/2017	22.06.2017	59
EXEMPTION FROM REGISTRATION TO THE PERSONS ON REVERSE CHARGE BASIS UNDER THE GST ACT	27/2017	22.06.2017	60
NOTIFICATION REGARDING OMISSION OF SECTION 165 FROM NOTIFICATION NO. 21/ST-2, DATED 22.06.2017.	28/2017	30.06.2017	61
NOTIFICATION REGARDING BRINGING INTO FORCE CERTAIN SECTIONS OF THE HGST ACT, 2017 W.E.F 01.07.2017.	29/2017	30.06.2017	62
NOTIFICATION UNDER SECTION 4(2) READ WITH CLAUSE (91) OF SECTION 2 OF THE HGST ACT OF 2017 TO EXERCISE THE POWERS AND PERFORM THE DUTIES OF PROPER OFFICER IN THE AREAS.	30/2017	30.06.2017	63
NOTIFICATION UNDER SUB-SECTION (2) OF SECTION 4, READ WITH CLAUSE (4) OF SECTION 2, OF THE HGST ACT OF 2017 TO EXERCISE THE POWERS AND			

PERFORM THE DUTIES OF ADJUDICATING AUTHORITY.	31/2017	30.06.2017	65
NOTIFICATION UNDER SECTION 4(2) OF THE HGST ACT OF 2017 FOR THE PURPOSE OF TAX ADMINISTRATION THE STATE SHALL BE DIVIDED INTO FIVE RANGES COMPRISING THE DISTRICTS.	32/2017	30.06.2017	67
REGARDING AMENDMENT IN RULES UNDER SECTION 164 OF THE HGST ACT, 2017	33/2017	30.06.2017	70
NOTIFICATION REGARDING COMPOSITION CONDITIONS UNDER SECTION 10(1) OF THE HGST ACT, 2017.	34/2017	30.06.2017	70
NOTIFICATION UNDER SUB-SECTION (1) OF SECTION 9 THE HGST ACT NOTIFYING THE RATE OF THE STATE TAX ON SUPPLY OF GOODS	35/2017	30.06.2017	72
NOTIFICATION UNDER SUB-SECTION (1) OF SECTION 11 THE HGST ACT NOTIFYING EXEMPTION OF INTRA-STATE SUPPLIES OF GOODS	36/2017	30.06.2017	74
NOTIFICATION 2.5% CONCESSIONAL HGST RATE FOR SUPPLIES TO EXPLORATION AND PRODUCTION NOTIFIED UNDER SECTION 11 (1) OF THE HGST ACT, 2017.	37/2017	30.06.2017	75
NOTIFICATION REGARDING REVERSE CHARGE ON CERTAIN SPECIFIED SUPPLIES OF GOODS UNDER SECTION 9 (3) OF THE HGST ACT, 2017	38/2017	30.06.2017	77
NOTIFICATION REGARDING SUPPLIES OF GOODS IN RESPECT OF WHICH NO REFUND OF UNUTILISED INPUT TAX CREDIT SHALL BE ALLOWED UNDER SECTION 54 (3).	39/2017	30.06.2017	79
NOTIFICATION REGARDING REFUND OF 50% OF HGST ON SUPPLIES TO CSD UNDER SECTION 55	40/2017	30.06.2017	81
NOTIFICATION REGARDING HGST EXEMPTION FROM REVERSE CHARGE UPTO RS.5000 PER DAY UNDER SECTION 11 (1) OF THE HGST ACT, 2017	41/2017	30.06.2017	82
NOTIFICATION REGARDING HGST EXEMPTION FROM REVERSE CHARGE UPTO RS.5000 PER DAY UNDER SECTION 11 (1) OF THE HGST ACT, 2017	42/2017	30.06.2017	84
NOTIFICATION REGARDING EXEMPTING SUPPLIES TO A TDS DEDUCTOR BY A SUPPLIER, WHO IS NOT REGISTERED, UNDER SECTION 11 (1) OF THE HGST ACT, 2017	43/2017	30.06.2017	85
NOTIFICATION REGARDING HGST EXEMPTION FOR DEALERS OPERATING UNDER MARGIN SCHEME/SECOND HAND GOODS NOTIFIED UNDER SECTION 11 (1) OF THE HGST ACT, 2017.	44/2017	30.06.2017	86
NOTIFICATION REGARDING RATE OF INTEREST UNDER THE HGST ACT, 2017.	45/2017	30.06.2017	87
NOTIFICATION REGARDING THE RATES FOR SUPPLY OF SERVICES UNDER THE HGST ACT, 2017.	46/2017	30.06.2017	88
NOTIFICATION REGARDING THE EXEMPTIONS ON SUPPLY OF SERVICES UNDER THE HGST ACT, 2017	47/2017	30.06.2017	90
NOTIFICATION REGARDING THE CATEGORIES OF SERVICES ON WHICH TAX WILL BE PAYABLE UNDER REVERSE CHARGE MECHANISM UNDER THE HGST ACT, 2017.	48/2017	30.06.2017	92
NOTIFICATION REGARDING THE SUPPLIES WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICE UNDER THE HGST ACT, 2017.	49/2017	30.06.2017	95
NOTIFICATION REGARDING THE SUPPLIES NOT ELIGIBLE FOR REFUND OF UNUTILIZED ITC UNDER THE HGST ACT, 2017	50/2017	30.06.2017	96
NOTIFICATION REGARDING SPECIALISED AGENCIES ENTITLED TO CLAIM A REFUND OF TAXES PAID ON THE NOTIFIED SUPPLIES OF GOODS OR SERVICES OR BOTH RECEIVED BY THEM UNDER HGST ACT, 2017.	51/2017	30.06.2017	97
NOTIFICATION REGARDING THE CATEGORIES OF SERVICES THE TAX ON INTRA-STATE SUPPLIES OF WHICH SHALL BE PAID BY THE ELECTRONIC COMMERCE OPERATOR	52/2017	30.06.2017	99
HGST RULES (SECOND AMENDMENT) FRAMED UNDER SECTION 164 UNDER THE HGST ACT, 2017	53/2017	30.06.2017	100
REDUCING RATE & OTHERS AMENDMENT IN NOTIFICATION NO.35/ST-2, DATED 30.06.2017(182A,182B,182C & 182D)	55/2017	30.06.2017	102

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Issue 14
16th July 2017

SUBJECT INDEX

BANK ACCOUNT – FREEZING OF - DIRECTIONS TO DEPARTMENT – BANK ACCOUNT OF PETITIONER FROZEN BY DEPARTMENT – LETTER SENT TO RESPONDENT TO DE-FREEZE THE SAME – REMINDERS SENT THERETO – NO ACTION TAKEN – WRIT FILED – RESPONDENT IS DIRECTED TO DECIDE WITH REGARD TO LETTER SENT BY PETITIONER AS PER LAW WITHIN 15 DAYS – WRIT DISPOSED OF - **SSG FABRICS VS UNION OF INDIA AND OTHERS**

5

DEDUCTIONS – SERVICE CHARGES – ASSESSEE SUPPLIER OF FOOD AND DRINKS TO PRINCIPAL COMPANY- UNREGISTERED – TAX AND PENALTY IMPOSED – APPEAL FILED PRAYING FOR DEDUCTION OF 50% ON GROSS RECEIPTS TOWARDS SERVICE CHARGES INSTEAD OF 30 % - APPELLANT RUNNING A CANTEN FOR THIS PURPOSE AVAILED A LOT OF FREE FACILITIES FROM PRINCIPAL COMPANY – THEREFORE, IN VIEW OF FREE FACILITIES AVAILED , 30% IS ADEQUATE DEDUCTION- APPEAL DISMISSED - **SHRI RAM INDUSTRIAL VS STATE OF HARYANA**

19

ENTRIES IN SCHEDULE - FIRE EXTINGUISHERS- FIRE EXTINGUISHERS MANUFACTURED AND SOLD TO RAIL COACH FACTORY – TAX DEPOSITED @4 % CONTENDING IT TO BE COMPONENTS OF RAILWAY COACHES – TAX LEVIED @12.5% - APPEAL FILED – TAX LEVIABLE @12.5% AS THE GOODS IN QUESTION ARE ACCESSORY AND NOT AN INTEGRAL PART OF RAILWAY COACHES – APPEAL DISMISSED – GOODS COVERED UNDER UNCLASSIFIED ITEMS AND NOT UNDER SCHEDULE C OF THE ACT – *HVAT ACT, 2003* - **ATLAS FIRETECH PVT. LTD. VS STATE OF HARYANA**

34

IMPORTED LIQUOR – DUTY FREE SHOPS – WHETHER IMPORTED LIQUOR SOLD TO AIRPORT DUTY FREE SHOPS FROM CUSTOM BOUNDED WAREHOUSE IS SUBJECT TO VAT/CST – HELD: NO, THE TRANSACTIONS TAKING PLACE BETWEEN CUSTOM BOUNDED WAREHOUSE AND AIRPORT DUTY FREE SHOPS IS BEYOND THE CUSTOM FRONTIERS OF INDIA – THEREFORE, VAT/ CST IS NOT LEVIABLE- *SECTION 5 OF CST ACT, 1956* - **IAN MACLEOD DISTILLERS INDIA PVT. LTD.**

38

INPUT TAX CREDIT – TRUCK – CAPITAL GOODS – TRUCK, TYRES AND TUBES PURCHASED BY APPELLANT ALLEGEDLY FOR MANUFACTURING PROCESS – INPUT TAX CREDIT DISALLOWED THEREON – HELD: TRUCK OUGHT TO BE USED AS AN INTEGRAL PART OF MANUFACTURING PROCESS AND NOT TO TRANSPORT FINISHED GOODS OR RAW MATERIAL – NO DOCUMENT PRODUCED TO PROVE TRUCK IN QUESTION USED EXCLUSIVELY FOR MANUFACTURING PROCESS – DOCUMENTS PRODUCED RELATE TO SUBSEQUENT YEAR LEADING TO ADVERSE INFERENCE – TYRES AND TUBES PURCHASED MUCH EARLIER THAN PURCHASE OF TRUCK – INPUT TAX CREDIT RIGHTLY DISALLOWED - APPEAL DISMISSED – *SECTION 2(1)(g) OF HVAT ACT, 2003* - **HARYANA FOILS LIMITED VS STATE OF HARYANA**

25

MANUFACTURING – TAXABLE GOODS – EXEMPTED GOODS – WHETHER BESAN MANUFACTURED FROM GRAM DAL BY DEALER – INSPECTION CONDUCTED - DOCUMENTS , GENERAL EXPENSES INDICATIVE OF DAL BEING IMPORTED AND SOLD INSTEAD OF BESAN BEING MANUFACTURED BY ASSESSEE – APPEAL FILED – HELD: PLEA THAT NO MACHINERY WAS USED BY ASSESSEE FOR MANUFACTURING IS UNACCEPTABLE AS EARLIER RETURNS WERE FILED AND ACCEPTED SHOWING FLOUR MILL IN RETURNS – SUTLI AND BARDANA EXPENSES SHOWN AS GENERAL EXPENSES NO WAY INDICATE THAT DAL WAS NOT CONVERTED IN TO BESAN – BARDANA USED FOR PACKING WAS REUSED FOR PACKING BESAN AFTER PURCHASING DAL IN THEM – ELECTRICITY BILLS AND OTHER DOCUMENTS ARE ENOUGH TO HOLD THAT BESAN HAS BEEN MANUFACTURED FROM THE MACHINERY THEREOF – APPEAL ACCEPTED - **SHREE FOOD PROCESSORS VS STATE OF PUNJAB**

12

NATURAL JUSTICE – INPUT TAX CREDIT – DENIAL OF – INPUT TAX CREDIT DISALLOWED BY ASSESSING AUTHORITY – NO REASONS RECORDED TO THAT EFFECT – APPEAL FILED – HELD: VIOLATION OF NATURAL JUSTICE – REASONS OUGHT TO BE GIVEN – APPEAL ACCEPTED AND MATTER REMANDED FOR FRESH DECISION – SECTION 8 OF HVAT ACT, 2005 - **J.R.M. STEELS P. LTD. VS STATE OF HARYANA** 17

NATURAL JUSTICE – PENALTY – CHECK POST – GOODS IN TRANSIT(JEWELLERY) NOT REPORTED AT ICC – GOODS CARRIED BY BUS – DETENTION OF – PENALTY IMPOSED FOR NON REPORTING – HELD: PENALTY IMPOSED THE SAME DAY AS ON THE DAY CASE STOOD FORWARDED TO THE OFFICER – NO OPPORTUNITY GIVEN TO EXPLAIN THE MATTER – ORDER REVEALS THAT CONTENTIONS RAISED WERE IGNORED – APPEAL ACCEPTED AND MATTER REMITTED TO AETC FOR FRESH HEARING – S .51 OF PVAT ACT, 2005 - **MANI JEWELS VS STATE OF PUNJAB** 9

NON SPEAKING ORDER – INPUT TAX CREDIT DISALLOWED- NO REASONS EVEN FOR DENIAL THEREOF – CONTENTIONS RAISED NOT RECORDED – NO APPLICATION OF MIND WHILE PASSING ORDER – APPEAL ALLOWED AND MATTER IS REMITTED BACK TO HEAR ON MERITS - **SANT STORE VS STATE OF PUNJAB** 7

PENALTY – ATTEMPT TO EVADE TAX – INGENUINE DOCUMENTS – GOODS IN TRANSIT INTERCEPTED AT 8.00 AM ON JANUARY 8 – DOCUMENTS PRODUCED SHOWING DATE OF DISPATCH AS JANUARY 4- GOODS DISPATCHED ON JANUARY 7 BY TRANSPORTER AT 8.40 PM – PENALTY IMPOSED SUSPECTING EVASION ON GROUNDS OF LONG GAP BETWEEN DATE OF DISPATCH AND DATE OF DOCUMENTS – PENALTY DELETED AS TIME GAP IS NOT ABNORMALLY HIGH TO SUGGEST REPEATED TRANSACTION ON BASIS OF SAME SET OF DOCUMENTS – VAT D3 PRODUCED FURTHER FORTIFYING THE CONCLUSION OF GENUINE TRANSACTION – APPEAL ACCEPTED – SECTION 31 OF HVAT ACT, 2003 - **BAMBINO AGRO INDUSTRIES LTD. VS STATE OF HARYANA** 31

PULSES – GRAM , GULAB GRAM – ENTRIES IN SCHEDULE – GOODS IN QUESTION HAVE BEEN MENTIONED AS PULSES AND ARE DECLARED GOODS UNDER THE CST ACT –ENTRY 3C READS AS ‘ALL KINDS OF PULSES’ UNDER THE LOCAL ACT – THUS, GOODS ARE EXEMPTED FROM VAT BEING COVERED UNDER ENTRY 3C OF SCHEDULE B. - **FOODGRAINS ASSOCIATION (VYAPAR MANDAL)** 41

RATE OF TAX – CONCESSION – SALES MADE BY ASSESSEE TO HARYANA URBAN DEVELOPMENT AUTHORITY (HUDA)- CONCESSIONAL RATE OF TAX ALLOWED BY ASSESSING AUTHORITY – REVISIONAL AUTHORITY RAISED ADDITIONAL DEMAND HOLDING HUDA TO BE AN AUTONOMOUS BODY INSTEAD OF GOVERNMENT BODY – APPEAL FILED – MATTER COVERED EARLIER IN CASE OF BIJLI NIGAMS CONSIDERED AND HUDA HELD TO BE ON SAME FOOTING AS BIJLI NIGAMS – HENCE, SALE TO HUDA TO BE TAXED @12.5% - APPEAL DISMISSED – INTEREST TO BE LEVIED FROM DATE OF ORDER OF REVISIONAL AUTHORITY AND NOT EARLIER DATE – SECTION 7(3)(b) OF HVAT ACT, 2003 - **RAJBIR SINGH CONTRACTOR VS STATE OF HARYANA** 23

STATUTORY FORMS – PERMISSION TO PRODUCE AFTER ASSESSMENT – ITC DISALLOWED DUE TO NON PRODUCTION OF VAT C-4 FORMS – PRAYER TO PRODUCE THEM AFTER FINALIZATION OF ASSESSMENT – PRAYER DECLINED CONTENDING THAT THE SAME WERE IN POSSESSION OF ASSESSEE EVEN BEFORE ASSESSMENT WAS FINALIZED – APPEAL BEFORE TRIBUNAL – PRAYER ALLOWED AS THE FORMS IN QUESTION UNDATED THEREBY RENDERING THE CONCLUSION MADE BY FIRST APPELLATE AUTHORITY BASELESS – ASSESSEE PERMITTED TO PRODUCE THEM BEFORE ASSESSING AUTHORITY – APPEAL ACCEPTED TO THE EXTENT OF PERMITTING PRODUCTION OF FORMS. - **GUPTA ELECTRICAL HOUSE VS STATE OF HARYANA** 21

STATUTORY FORMS – PRODUCTION OF - ILLNESS – OPPORTUNITY TO PRODUCE STATUTORY FORMS- INPUT TAX CREDIT DISALLOWED – APPEAL FILED CONTENDING THAT FAILURE TO DO SO WAS ON ACCOUNT OF DAUGHTER’S SERIOUS ILLNESS – MEDICAL RECORD PRODUCED AS EVIDENCE – OPPORTUNITY TO PRODUCE THE DOCUMENTS SOUGHT - PRAYER GRANTED – APPEAL ALLOWED WITH ANOTHER OPPORTUNITY TO PRODUCE THE DOCUMENTS - **BALAJI INFRATECHON PVT. LTD. VS STATE OF HARYANA** 29

TAXABLE TURNOVER – PADDY – PURCHASE TAX – PURCHASE TAX LEVIED ON PURCHASE OF PADDY SOLD TO A MILLER FOR EXPORT OF RICE – APPEAL FILED – MATTER COVERED BY AN EARLIER CASE DECIDED BY HIGH COURT – APPEALS ARE THEREFORE ALLOWED – SECTION 27 OF HGST ACT, 1973 - **S.K. ENTERPRISES VS STATE OF HARYANA** 36

**PUNJAB & HARYANA HIGH COURT**

CWNO. 10387 OF 2016

[Go to Index Page](#)

**SSG FABRICS
Vs
UNION OF INDIA AND OTHERS**

AJAY KUMAR MITTAL AND RAJ RAHUL GARG, JJ.

23rd May, 2016

HF ► *Directions given*

Department is directed to decide on the letters and reminders sent by petitioner with regard to de-freezing its bank account.

BANK ACCOUNT – FREEZING OF - DIRECTIONS TO DEPARTMENT – BANK ACCOUNT OF PETITIONER FROZEN BY DEPARTMENT – LETTER SENT TO RESPONDENT TO DE-FREEZE THE SAME – REMINDERS SENT THERETO – NO ACTION TAKEN – WRIT FILED – RESPONDENT IS DIRECTED TO DECIDE WITH REGARD TO LETTER SENT BY PETITIONER AS PER LAW WITHIN 15 DAYS – WRIT DISPOSED OF

Facts

The petitioner is engaged in manufacturing and trading of T- shirts, jackets etc and exporting them. The bank account of the petitioner was freezed alongwith few other firms opining that the firm was bogus. The petitioner requested the respondent to de freeze its account but to no avail. Repeated reminders were sent to the department. Therefore, a writ is being filed in this regard.

Held:

The respondent is directed to take a decision on the letters and reminders sent by petitioner in accordance with law within a period of 15 days from the date of receipt of passing of this order.

Present: Mr. Jagmohan Bansal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the letters dated 22.3.2016 (Annexures P-4 and P-5, respectively) vide which respondents No.2 and 3 have directed respondent No.4 to freeze bank account of the petitioner. Further a writ of mandamus has been sought directing respondents No.3 and 4 to immediately de-freeze bank account No. 35211398820 of the petitioner and to direct respondent No.4 to allow operation of bank account to the petitioner.

2. The petitioner is engaged in the business of manufacture and trading of readymade and hosiery articles, i.e. T-shirts, shirts, lowers, jackets etc. and is regularly exporting all the articles. The petitioner is having importer/exporter code dated 30.9.2015 (Annexure P-1).

Since the articles in question were not subject to central excise duty, so the petitioner was not required to get itself registered with the Central Excise Department and to file returns. The petitioner got itself registered with the Excise and Taxation Department and regularly filed its returns. It is regularly filing VAT 15 (quarterly returns). During 2015-16, the petitioner filed quarterly returns, i.e. VAT-15 (Annexures P-2 to P-3, respectively) with total turnover of more than Rs.20 crores. Respondent No.2 got some intelligence that several firms were indulging in fraudulent availment of drawback using taxi/bogus firms for which no remittance were received. Accordingly, respondent No.2 formed an opinion that 488 firms are taxi/bogus firm and have used to siphon drawback of more than Rs.300 crores in a period of about two years. Respondent No.2 vide letter dated 22.3.2016 (Annexure P-4) directed respondent No.3 to freeze bank account of all the firms including the petitioner. Respondent No.3 vide letter dated 22.3.2016 (Annexure P-5) directed bankers of all the exporters named in the letter, Annexure P-4, to freeze all the drawback/current bank account including the foreign remittance account. On coming to know about the freezing of its account, the petitioner vide letter (Annexure P-6) requested respondent No.2 to de-freeze its bank account No. 35211398820, but to no effect. Thereafter, the petitioner sent reminders dated 7.4.2016, 11.4.2016, 26.4.2016 and 5.5.2016 (Annexure P-7 to P-10, respectively) for de-freezing its bank account, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a letter (Annexure P-6) followed by reminders dated 7.4.2016, 11.4.2016, 26.4.2016 and 5.5.2016 (Annexure P-7 to P-10, respectively) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 or the concerned authority to take a decision on the letter (Annexure P-6) followed by reminders dated 7.4.2016, 11.4.2016, 26.4.2016 and 5.5.2016 (Annexure P-7 to P-10, respectively), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of 15 days from the date of receipt of certified copy of the order.

**PUNJAB VAT TRIBUNAL****APPEAL NO. 321 OF 2015**[Go to Index Page](#)

**SANT STORE
Vs
STATE OF PUNJAB**

**JUSTICE A.N. JINDAL, (RETD.)
CHAIRMAN**

10th January, 2017

HF ► Remand

Matter is remitted back to hear the case on merits as the impugned order is non speaking.

NON SPEAKING ORDER – INPUT TAX CREDIT DISALLOWED- NO REASONS EVEN FOR DENIAL THEREOF – CONTENTIONS RAISED NOT RECORDED – NO APPLICATION OF MIND WHILE PASSING ORDER – APPEAL ALLOWED AND MATTER IS REMITTED BACK TO HEAR ON MERITS -

Facts

The appellant was carrying business of trading of both taxable and non taxable goods. Since the appellant had claimed ITC on tax free goods, a demand was raised by the department on account of tax. An appeal is filed before Tribunal.

Held:

It transpires that the Assessment order has been passed without application of mind. No discussion of contentions raised by appellant has been made. No reasons are recorded for passing such an order.

The case is remitted back to the designated officer to pass a speaking order after hearing the matter on merits. The appeal is accepted.

Present: Mr. Amit Bajaj, Advocate counsel for the appellant.
Mr. B.S. Chahal, Dy. Advocate General for the State.

JUSTICE A.N. JINDAL, (RETD.) CHAIRMAN

1. This order of mine shall dispose off two connected appeal Nos.321 and 322 of 2015 against the order dated 23.2.2015 passed by the First Appellate Authority, Jalandhar Division, Jalandhar dismissing the appeal against the order dated 5.8.2014 passed by the Designated Officer-cum-Excise and Taxation Officer, Jalandhar-II.

2. The appealwise facts are submitted as under:-

Appeal No.321 of 2015

3. The appellant has been carrying on business of trading of both taxable and tax free goods. He filed annual statement in the Form VAT-20 for the year 2010-11. On scrutiny the Assessing Authority issued notice U/s 29(2) of the Punjab Value Added Tax Act, 2005 on the ground that the assessee had made the reversal under Punjab on account of manufacturing of tax free goods. The appellant had made purchases of tax free goods to the tune of Rs. 73,01,644/-, whereas, he had shown the sale of goods to the tune of Rs. 1,10,50,741/-. As per section 13(1) read with 13(a) of the Act, the appellant is not entitled to claim an Input tax credit on the goods sold as tax free. He was to segregate taxable goods from tax free goods then claim reversal. As per ICC record, the appellant made interstate purchases of the taxable goods and not tax free goods. Consequently, the Designated Officer segregated the taxable goods from tax free goods and then created demand to the tune of Rs.7,90,000/- on account of tax.

Appeal No. 322 of 2015

4. On the similar facts the notice U/s 29 (2) of the Punjab Value Added Tax Act was Issued for scrutinizing the assessment for the year 2011-12 & and on scrutiny, the assessing officer created demand to the tune of Rs.38,200/- against the appellant. The appeal filed by the appellant against both the orders was dismissed. Hence this second appeal.

5. I have heard the Ld. Counsel for the appellant as well as the state Counsel.

6. The counsel for the appellant has submitted that the appellant is only a trader and not the manufacturer of goods. He has not sold any taxable goods as tax free goods, therefore, no ITC could be reversed. On this score, he further argued that the dealer had opening stock of tax free goods and he has not converted any taxable free into taxable goods. Therefore, no ITC could be reversed on this score. The order passed by the Assessing Authority was non speaking.

7. To the contrary, the State Counsel has opposed the arguments tooth and nail and has contended that the order passed by the authorities below are justified.

8. Having heard the rival contentions and having gone through records of the case, it transpires that the order framing the assessment totally escapes the application of mind. It was passed purely in a mechanical and inappropriate manner without discussing the contentions raised by the appellant. Similarly, the First Appellate Authority has also not recorded any reasons for dismissing the pleas as advanced by the counsel for the appellant In support of his case. The relevant and operative part of the-orders dated 23.2.2015 passed by the First Appellate Authority read as under:-

"The arguments of the counsel as well as the state representative have been heard and record produced before me has also been perused. Not convinced by the arguments of the appellant, the appeal is dismissed and the order of the D.O. is upheld. However, the Interest of Rs.3315 is waived."

9. The First Appellate Authority was obliged to record the reasons for his decision and the grounds for Ignoring the contentions raised by the appellant The Designated Officer has also not passed a speaking order, therefore, It would be appropriate to remit the case to the Designated Officer to pass a fresh speaking order after hearing the appellant on merits.

10. Resultantly, these appeals are accepted, impugned orders are set- aside and the cases are remitted back to the Assessing Authority to hear the appellant afresh and decide the same accordingly by passing a speaking orders. The appellants are directed to appear before the Excise and Taxation Officer, Jalandhar-II on 21.2.2017.

11. Pronounced in the open court.

**PUNJAB VAT TRIBUNAL****APPEAL NO. 236 OF 2013**[Go to Index Page](#)

**MANI JEWELS
Vs
STATE OF PUNJAB**

**JUSTICE A.N. JINDAL, (RETD.)
CHAIRMAN**

25th May, 2017

HF ► Assessee

Order passed without granting proper opportunity can not be sustained.

NATURAL JUSTICE – PENALTY – CHECK POST – GOODS IN TRANSIT(JEWELLERY) NOT REPORTED AT ICC – GOODS CARRIED BY BUS – DETENTION OF – PENALTY IMPOSED FOR NON REPORTING – HELD: PENALTY IMPOSED THE SAME DAY AS ON THE DAY CASE STOOD FORWARDED TO THE OFFICER – NO OPPORTUNITY GIVEN TO EXPLAIN THE MATTER – ORDER REVEALS THAT CONTENTIONS RAISED WERE IGNORED – APPEAL ACCEPTED AND MATTER REMITTED TO AETC FOR FRESH HEARING – S.51 OF PVAT ACT, 2005

Facts

Goods(jewellery) were carried by bus from Delhi to Ludhiana. The goods were detained as they were not reported at the ICC. Penalty was imposed u/s 51.

The case was forwarded to the designated officer who on the same day imposed penalty without giving reasonable opportunity to the appellant to explain the case. Thus, an appeal is filed.

Held:

The order reveals that the contentions were not recorded by the officer. No reasons for ignoring such contentions are given. The officer has passed a cryptic order and punishment to any person without reasons is arbitrary. Therefore, the impugned order is quashed. The case is remitted back to the AETC to decide afresh. The guarantee would not be encashed till further orders.

Present: Sh. K.L. Goyal, Sr. Advocate alongwith Sh. Rohit Gupta, Advocate Counsel for the appellant.

Mr. N.K. Verma, Sr. Dy. Advocate General for the State.

JUSTICE A.N. JINDAL, (RETD.) CHAIRMAN

1. The Assistant Excise and Taxation Commissioner-cum-Designated Officer, ICC

Shamboo (Export) vide his very short, cryptic, sketchy and arbitrary order dated 17.5.2012 imposed a penalty to the tune of Rs. 18,92,284/- U/s 51 (7) (c) of the Punjab Value Added Tax Act, 2005 against the appellant. The appeal filed by appellant against the said order was also dismissed on 26.10.2012.

2. The factual matrix of the case is that on 08.5.12, when Jayantibhai an employee of the appellant was bringing jewellery from Delhi to Ludhiana by bus, was detained near the Shamboo (Export) ICC on G.T. Road at Village-Bapror for the reason that he had failed to declare the goods at the ICC while entering into the State of Punjab, he thereby violated Section-51 (4) of the Punjab Value Added Tax Act and the goods were also not accompanying any bill/challan (invoice). All possibilities of declaring at the ICC were exhausted. The appellant has alleged that one document called approval memo" accompanied the goods, which was shown to the detaining officers. No Record relating to the jewellery was produced before him. Since, the goods were not covered by proper and genuine documents, therefore the same were detained U/s 51 (6) (b) of the PVAT Act, 2005. Necessary notice was issued, in response to which Sh. Jaginder Singh, Adv. appeared before the Penalising Officer. He was confronted with facts of the case. He argued that the goods were detained in Police Station, Shambu not at Bapror (G.T. Road). Village Bapror and Police Station both are on G.T. Road hardly less than one kilometer apart. The goods were detained during Police Checking and the ETO was asked to detain the goods. He argues that ICC (Export) cannot detain the goods of ICC (Import). After thorough consideration of all the facts and circumstances, Assistant Excise and Taxation Commissioner-cum-Designated Officer, ICC, Shamboo (Export) imposed a penalty to the tune of Rs. 18,92,284/- vide order dated 17.5.2012 which has been challenged in the present appeal.

3. I have heard the learned counsel for the parties and have perused the record of the case, and I observe as under:-

After detaining the goods on 8.5.2012, the case was forwarded by the Detaining Officer to the Designated Officer on 17.5.2012. The case came up for hearing before the Assistant Excise and Taxation Commissioner on 17.5.2012 itself and he disposed off it on the same day after imposing a penalty to the tune of Rs.18,92,284/- U/s 51 (7) (c) of the Punjab Value Added Tax Act, 2005. Thus it implies that no reasonable opportunity was given to the appellant, to explain and defend his case. The order appears to have been passed arbitrarily without application of my mind. The order itself reveals that the officer was very much poised against the appellant and was in hurry to impose the penalty.

4. At the very first blush of the order, it reveals that the first 19 lines of the order are having more space than the remaining lines of the first page and both the above the portions appear to be in different ink. The order further reveals that though the counsel was present and addressed some contentions but the officer did not record the same and passed the order without recording his contentions. When Mr. Jaginder Singh, Advocate showed still resistance to record his contentions, then he recorded, the contentions after completing the order and signing the same, but unfortunately, the Designated Officer still did not make his comments regarding the contentions and no reasons were, assigned by him to ignore such contentions.

5. From the tenor of the order, it appears that the officer was in a hurry to award the penalty without caring as to what the appellant wanted to contend. He appears to have pre-judged the case and passed the order in a slip short manner and without application of mind. The cases where heavy stake of the parties is involved, the principle of natural justice

require that the authorities must provide an opportunity .to the aggrieved to say something and if some contentions are raised then the officer either should accept or decline by recording the reason therefore. The punishment to the person by the officer for his own reasons (the authority) is against the principles of natural justice. Such arbitrary orders encourage the litigant public to lose faith in the system. The principle of law is that one can't be condemned unheard. It may further be observed that the officer has been passing such cryptic orders since earlier also, but it is sorry to say that he was never checked, prevented or prohibited to work In an autocratic manner; his attitude has damaged the system to a great extent. After examining the impugned orders and without going deep into the merits of the case, this Tribunal Is shocked to see the manner in which the officer has dealt with the case and passed the order of penalty hurriedly without taking into consideration the contentions raised by the appellant. Therefore, the Tribunal is compelled to quash such orders.

6. Resultantly this appeal is accepted, impugned order is set-aside and the case is remitted back to the Assistant Excise and Taxation Commissioner/Designated Officer, ICC, Shamboo (Export) to decide the case afresh after providing opportunity to the appellant of being heard. However it is made clear that the aforesaid said observations would not influence the mind of the Designated Officer in any manner so as to change his view, but' he would decide the case independently of the aforesaid observations made by the Tribunal. The guarantee/surety as furnished by the appellant would not be encashed till further orders.

7. Pronounced in the open court.

**PUNJAB VAT TRIBUNAL****APPEAL NO. 165 OF 2012**[Go to Index Page](#)**SHREE FOOD PROCESSORS****Vs****STATE OF PUNJAB****JUSTICE A.N. JINDAL, (RETD.)****CHAIRMAN**31st January, 2017**HF ► Assessee**

Perusal of Electricity bills and other documents reveal that Besan has been manufactured from dal as per the records put forth after inspection and thus no tax could be levied.

MANUFACTURING – TAXABLE GOODS – EXEMPTED GOODS – WHETHER BESAN MANUFACTURED FROM GRAM DAL BY DEALER – INSPECTION CONDUCTED - DOCUMENTS , GENERAL EXPENSES INDICATIVE OF DAL BEING IMPORTED AND SOLD INSTEAD OF BESAN BEING MANUFACTURED BY ASSESEE – APPEAL FILED – HELD: PLEA THAT NO MACHINERY WAS USED BY ASSESSEE FOR MANUFACTURING IS UNACCEPTABLE AS EARLIER RETURNS WERE FILED AND ACCEPTED SHOWING FLOUR MILL IN RETURNS – SUTLI AND BARDANA EXPENSES SHOWN AS GENERAL EXPENSES NO WAY INDICATE THAT DAL WAS NOT CONVERTED IN TO BESAN – BARDANA USED FOR PACKING WAS REUSED FOR PACKING BESAN AFTER PURCHASING DAL IN THEM – ELECTRICITY BILLS AND OTHER DOCUMENTS ARE ENOUGH TO HOLD THAT BESAN HAS BEEN MANUFACTURED FROM THE MACHINERY THEREOF – APPEAL ACCEPTED -

The appellant is a miller and trader of pulses and besan. On inspection it was found that as per general expenses, accounts of firm and machinery expenses, it was observed that besan was not made out of gram dal. Also, no bardana and sutli consumption was shown. The assessing authority reached the conclusion that the appellant had not made besan out of gram dal but had imported it from outside state and sold the same. In Appeal filed before Tribunal was held:

Held:

The plea of department that no machinery was used for converting dal into besan is unacceptable as the appellant has been showing flour mill in previous years and furnishing assessments.

Expenses of sutli and bardana have been shown as general expenses and not independent expenses as the same are very small.

Regarding bardana it is explained that the same was used for repacking besan after it was received while purchasing dal.

As per documents on record and electricity bill produced it is safe to hold that the appellant has been manufacturing besan. The authorities have not taken a correct view from facts and circumstances and the evidence on record.

The matter is remitted back to reframe assessment considering that besan has been converted from gram dal as shown in returns. The appeal is accepted

Present: Mr. K.L. Goyal, Sr. Advocate alongwith Mr. Varun Chadha, Advocate counsel for the appellant.

Mr. B.S. Chahal, Dy. Advocate General for the State.

JUSTICE A.N. JINDAL, (RETD.) CHAIRMAN

1. This order of mine shall dispose off four connected appeal Nos. 165, 166, 167 and 168 of 2012 against the common order dated 9.9.2011 passed by the Deputy Excise and Taxation Commissioner (herein referred as the First Appellate Authority), Faridkot Division, Headquarter at Bathinda dismissing the appeal of the appellant against the order dated 28.5.2010 passed by the Designated Officer-cum-Excise and Taxation Officer, Mansa framing the assessment for the years w.e.f. 2006-2007 to 2009-2010.

2. Since all the four appeals involve the common question of law, therefore, all are decided together.

Appeal No. 165 of 2012

3. Factual back ground of the case is that the appellant deals in milling and trade of pulses & besan and has been filing the regular returns in Form VAT-15 and VAT-20 on time. On 15.7.2009, The Officers of the Mobile Wing, Patiala conducted the surprise inspection. During the inspection, they impounded documents. and CPU of the computer relating to the appellant firm. On examination of documents, the account of the machinery expenses, general expenses and account of the firm, they reached the conclusion that there was suppression of facts regarding making of the Besan (Gram Flour) out of 'gram dall' and since no expenses over machinery have been shown, therefore, it was doubtful if the appellant had made besan from Gram Dal. It may be made clear here that at the relevant time, besan was not taxable whereas 'gram dal' was taxable. The detention officer further observed that since the appellant had not shown consumption of Bardana and Sutli which was consumable in packing of 'besan bags, therefore, the appellant might have sold the gram dal without payment of tax and showed that he had converted it into besan. The Assessing Authority also reached the conclusion that the appellant had not manufactured Besan out of gram dal, but instead sold the gram dal imported the same from out side the State. After completing the due formalities, the Designated Officer, vide order dated 28.5.2010 created the additional demand to the tune of Rs.31,798/-for the year 2006-07.

4. Feeling aggrieved, the appellant came up in appeal, which was also dismissed. The appellant again preferred the appeal before the Tribunal which was dismissed on 18.2.2013. On filing the rectification application, this Tribunal, vide order dated 13.5.2016, recalled the order and again posted the appeal for arguments.

Appeal No. 166 of 2012

5. This appeal relates to the assessment year 2007-08 and has arisen out of the surprise visit of the officers of the Mobile Wing, Patiala on 15.7.2009. As a matter of fact after the surprise visit by the officers of Mobile Wing Patiala, all these returns for the year

2006-07 to 2009-10 were reopened for scrutiny and after scrutiny, the Assessing Authority created demand for Rs. 31,798/- for the year 2006-07 and Rs.94,957/- for the assessment year 2007-08. On the same plea that the appellant had not manufactured the besan out of the gram dal but instead sold the gram Dal outside the State of Punjab. This inference was be drawn on the ground that no expenses were shown on the machinery as well as bardana and suit and the electricity charges were also negligible to infer that the Dal was not converted into besan.

Appeal No. 167 of 2012

6. This appeal relates to the assessment year 2008-09. The Designated Officer re-examined the record of the case on the basis of report made by Inspecting Team and therefore, vide order 28.5.2010, had created additional demand of Rs.80,139/- for the aforesaid year. The appeal against the said order was dismissed on 9.9.2011.

Appeal No.168 of 2012

7. This appeal relates to the assessment year 2009-10. The Assessing Authority vide order dated 30.6.2010 created additional demand to the tune of Rs.49,210/- for this year. The appeal against the said order was dismissed on 9.9.2011.

8. Feeling aggrieved against the orders passed by the Assessing Authority, the appellant preferred the appeals which were dismissed by the First Appellate Authority. Still not satisfied, the appellant filed the appeals before the Tribunal who vide common judgement dated 18.2.2013, again confirmed the findings returned by the Authorities below. However on the filing of the rectification, application, the Tribunal had recalled the earlier order dated 18.2.2013 and posted the appeal for rehearing.

9. I have heard the Id. Counsel for the parties and have perused the record of the case. The Counsel for the appellant has urged that the raid on the premises of the appellant was the result of an enmity between him and a journalist. The journalist wanted him to issue some fictitious bills so that his vehicle could pass through the barrier on that basis, but on refusal to accommodate him, he got him implicated in this false case. It has been next contended that the Assessing Authority has 'passed the, order ignoring the electricity bills and merely on the grounds that since Mobile Wing has already worked out the suppressed turn over, therefore, he could not differ with him which amounts to a predetermined decision and non application of mind. The Assessing Authority also appears to have exceeded its jurisdiction to draw the necessary inference of electricity consumption by the applicant/appellant, whereas, no such inference regarding non conversion of Dal into besan could be drawn that too only for the reason that some observations were made by the Detaining Officer. No basis or evidence has been cited from where such inference could be drawn. The Assessing Authority did not properly examine the balance sheet trading account and sale and purchase account. The issue with regard to consumption of electricity has not been considered in right perspective. It is often seen and experienced that in the case of manufacturing besan from gram dal electricity consumption cannot be so high as compared to and grinding of moong dal. As regards, the expenses on sutli or the bardana, the sutli being a very cheap item expenses on sutli remain negligible which already worked out the suppressed turn over, therefore, he could not differ with him which amounts to a predetermined decision and non application of mind. The Assessing Authority also appears to have exceeded its jurisdiction to draw the necessary inference of electricity consumption by the applicant/appellant, whereas, no such inference regarding non conversion of Dal into besan could be drawn that too only for the reason that some observations were made by the Detaining Officer. No basis or evidence has been cited from where such inference could be drawn. The Assessing Authority did not properly examine the balance sheet trading account and sale and purchase account. The issue with regard to consumption of electricity has not

been considered in right perspective. It is often seen and experienced that in the case of manufacturing besan from gram dal electricity consumption cannot be so high as compared to and grinding of moong dal. As regards, the expenses on sutli or the bardana, the sutli being a very cheap item expenses on sutli remain negligible which sometimes are not shown or are shown in general expenses. Therefore, non mention of such expenses do not effect the case of the appellant/As regards bardana, the arguments raised by the counsel are that the bardana, in which Dal was brought, was used for, packing of the besan. Therefore, the non disclosure of expenses on bardana could not be a valid ground to draw the inference that besan was not manufactured.

10. To the contrary, the State Counsel has submitted that since the appellant has failed to show the expenses on the machinery bardana and sutli, therefore, the inference would be drawn that the machinery did not work for grinding dal or for converting the same into besan. Since the electricity expenses during these years were proportionately low, therefore the inference would be drawn that the appellant did not manufacture besan. As such the demand created was justified.

11. Having heard the rival contentions and having perused the documents produced on the record, I find merit in the contentions raised by the Counsel for the appellant. The claim of the appellant is that it was an old machinery as the appellant has been running his floor Mill since long and has been furnishing assessments for the previous years also. The said assessments were being accepted without any such objection, therefore, the plea of the department that there was no machinery for converting dal into besan can't be accepted as the appellant has been showing his Floor Mill in the previous years also.

12. As regards, the showing of expenses on sutli and bardana, the assessee has shown the general expenses in the different years in his profit and loss account. The sutli being a small and cheap item could not necessarily be shown in independent entry. The expenses on sutli are not more than 500 every year, therefore, even if such amount is shown in the general expenses then it would not be so absurd to take an adverse view that Dai was not converted into Besan.

13. Regarding bardana, it is submitted that the bardana which was received while making purchase of Dal was used for packing the Besan. It is but normal that petty businessmen after grinding Dal/ Wheat, they use the same bags as a packing material for packing the Besan. Particulars regarding bardana have been shown at page/8 of the audit accounts.

14. As regards the electricity charges, the State has produced chart showing the electricity consumption as disclosed by the appellant on moong Dal and Besan in different years. It is even not denied by the department that more electricity, is consumed for preparing moong Dal then grinding gram dal to manufacture besan. The department has submitted a data for the year 2006-07 to 2009-10 regarding the expenses of electricity on the above referred two items. The said data is reproduced as under:

DATA FOR THE YEAR 2006-07 AND 2007-08 AS PROVIDED BY THE DEALER

YEAR	SALE OF BESAN IN RS.	QTY IN QTLS	ELECTRICITY CONSUMPTION PER QTL	ELECTRICITY CONSUMED	SALE OF MOONG DALL AND MOOTH DALL	QTY IN QTLS	ELECTRICITY CONSUMPTION	ELECTRICITY CONSUMED	ELECTRICITY CONSUMED ON A/C OF OFFICES	PROJECTED ELECTRICITY BILL	ACTUAL ELECTRICITY BILL	DIFF. B/W ACTUAL ELEC. BILL AND PROJECTE	TOTAL QUANTITY PROCESSED
2006-07	795112	295	35	10325	1719409	490	150	73500	19268	103093	100093	-3000	785
2006-07	2959775	869	40	34760	140320	40	150	6000	19268	60028	51951	-8077	900

PROJECTED DATA ON THE BASIS OF DATA PROVIDED BY DEALER FOR THE YEAR 2006 TO 2008

2008-09	2003662	742	45	33390	207150	159	150	23850	19268	76508	33986	-42522	901
2009-10	318360	118	50	5900	--		150	0	19268	25168	20900	-4268	118

15. On critical examination of the aforesaid data, it is very much apparent that the expenses were duly spent for manufacturing besan from dal over the machinery installed by the appellant. If a comparative study of the expenses over moong dal and gram dal is made then it is established that:

- (i) The appellant had the necessary infrastructure including machinery for grinding gram dal.
- (ii) He has been issued the electricity bills and he was paying those bills over the years for the electricity consumed by the appellant over his floor mill.
- (iii) If the amount as paid by the appellant to the department on account of consumption of electricity over grinding of two items is apportioned, then it would be proved that appellant had used the electricity for converting gram dal into besan.

No other argument has been raised.

16. On critical analysis of the documents on record, the electricity bills and the written contentions, it would be safe to hold that the appellant has been manufacturing besan by bringing the gram dal from outside and after converting the same into besan, selling the same in the market, therefore, no demand could be created on the conjectures that the appellant was not preparing besan over the machinery installed by him. The authorities below have not taken the correct view of the matter from the facts and circumstances prevailing over the case and the evidence on record as such the findings returned by the authorities need be reversed.

17. Resultantly, I accept the appeals, set-aside the impugned orders and remit the cases back to the authorities for reframe the assessment, while considering that the appellant had sold the besan after converting the same from gram dal as shown by him in the returns.

18. Pronounced in the open court.

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**HARYANA TAX TRIBUNAL**[Go to Index Page](#)STA 776 OF 2010-11**J.R.M. STEELS P. LTD.****Vs****STATE OF HARYANA****JUSTICE L.N. MITTAL (RETD.), CHAIRMAN****SUKHPAL SINGH KANG, MEMBER****SACHIN JAIN, MEMBER**6th April, 2017**HF ► Assessee***Input Tax credit cannot be disallowed without giving any reason by Assessing Authority.*

NATURAL JUSTICE – INPUT TAX CREDIT – DENIAL OF – INPUT TAX CREDIT DISALLOWED BY ASSESSING AUTHORITY – NO REASON S RECORDED TO THAT EFFECT – APPEAL FILED – HELD: VIOLATION OF NATURAL JUSTICE – REASONS OUGHT TO BE GIVEN – APPEAL ACCEPTED AND MATTER REMANDED FOR FRESH DECISION – SECTION 8 OF HVAT ACT, 2005

Facts

The appellant – assessee has filed an appeal contending that the ITC was disallowed without giving any reason and without proving any collusion or connivance. Thus, an appeal is filed before Tribunal.

Held:

There is no finding recorded by the assessing authority that the ITC could be disallowed. The assessee was not confronted with the reports relied on by the Assessing Authority to disallow ITC claim of the assessee. Therefore, there has been violation of natural justice. The appeal is allowed and matter is remanded back to the assessing authority for fresh decision.

Present: Sh. Rajiv Agnihotri, Advocate Counsel for the Applicant.
Sh. Dinesh Bajaj, District Attorney for the State.

JUSTICE L.N. MITTAL, (RETD.) CHAIRMAN

1. This is second appeal by assessee M/s JRM. Steels P Ltd., Samalkha, Panipat.
2. We have heard counsel for the appellant and District Attorney for the State and perused the case file.

3. Counsel for the appellant contended that the assessee- appellant was not confronted with the reports relied on by the Assessing Authority. It was also contended that there is no finding by the Authorities below, while dis-allowing input tax credit (ITC) claim of the assessee-appellant, that there was collusion or connivance of the assessee-appellant with the selling-dealers or that there was element of fraud etc., and without such finding, ITC could not be dis-allowed, as held by Hon'ble High Court of Punjab and Haryana in (2011) 40 PHT 145 (P&H) M/s Gherulal Lal Bal Chand Vs State of Haryana and another.

4. We have carefully considered the matter. The only issue raised in this appeal relates to dis-allowing of ITC claim of the assessee-appellant. There is no finding by the Authorities below regarding collusion, fraud etc. Without such finding, ITC claim could not be dis-allowed as held in the case of Gheru Lal Bal Chand (supra). Besides it, the assessee was not confronted with the reports relied on by the Assessing Authority to dis-allow ITC claim of the assessee. Thus there has been violation of the principles of natural justice on this count. Consequently, for both these reasons, the matter has to be remanded to the Assessing Authority.

5. Resultantly this appeal is allowed. Impugned orders of both the Authorities below are se-aside and the case is remanded to the Assessing Authority for fresh decision in accordance with law.

**HARYANA TAX TRIBUNAL**[Go to Index Page](#)STA 242 OF 2011-12

**SHRI RAM INDUSTRIAL
Vs
STATE OF HARYANA**

JUSTICE L.N. MITTAL (RETD.), CHAIRMAN

SUKHPAL SINGH KANG, MEMBER

SACHIN JAIN, MEMBER

6th April, 2017

HF ► Revenue

Deduction of 30% expenses from the total consideration of Food and drinks allowed to assessee towards service charges is adequate as the assessee availed free facilities from principal company.

DEDUCTIONS – SERVICE CHARGES – CANTEEN SERVICES - ASSESSEE SUPPLIER OF FOOD AND DRINKS TO PRINCIPAL COMPANY- UNREGISTERED – TAX AND PENALTY IMPOSED – APPEAL FILED PRAYING FOR DEDUCTION OF 50% ON GROSS RECEIPTS TOWARDS SERVICE CHARGES INSTEAD OF 30 % - APPELLANT RUNNING A CANTEEN FOR THIS PURPOSE AWAILED A LOT OF FREE FACILITIES FROM PRINCIPAL COMPANY – THEREFORE, IN VIEW OF FREE FACILITIES AWAILED , 30% IS ADEQUATE DEDUCTION- APPEAL DISMISSED

Facts

The appellant had been supplying cooked food and drinks against a fixed consideration to the officers of principal company. The appellant had not got itself registered. Hence, tax and penalty was imposed after allowing deduction of 30 % on gross receipts of appellant towards service charges. An appeal is filed contending that atleast 50% deduction should have been allowed on service charges.

Held:

The appellant running a canteen in premises of principal company was not paying any rent and was also not paying for electricity charges and water charges. Keeping in view the aforesaid free facilities provided to appellant, deduction of 30% cannot be said to be inadequate or on lower side. The appeal is dismissed.

Present: Sh. Rajiv Agnihotri, Advocate Counsel for the Applicant.
Sh. Dinesh Bajaj, District Attorney for the State.

JUSTICE L.N. MITTAL, (RETD.) CHAIRMAN

1. This is second appeal by assessee M/s Shri Ram Fndustrial Food Services, Rewari.

2. The appellant had been supplying cooked food/drinks against a fixed consideration to the officers/officials of M/s Metso Minerals (India) Pvt. Ltd., Bawal (in short, the Principal Company). The appellant was, therefore, liable to get itself registered as dealer under the Haryana Value Added Tax Act, 2003 (in short, the HVAT Act) and to file necessary periodical returns and to pay tax under the HVAT Act. The assessee, however, failed to do so. On receiving necessary information from the Principal Company, the Assessing Authority, Rewari made best judgment assessment under section 16 of the HVAT Act and imposed tax and penalty under it vide order dated 28- 03-2011. First appeal filed by the appellant against the said order has been dismissed by first Appellate Authority, Faridabad vide order dated 30-08-2011. Hence this second appeal.

3. We have heard counsel for the appellant and District Attorney for the State and perused the case file.

4. Counsel for the appellant contended that the Authorities below have not determined the date from which the liability started. It was also contended that the catering service provided by the appellant to the Principal Company included sale of goods and service part also and only sale of goods could be taxed and the service part had to be excluded. It was contended that the Authorities below have allowed deduction of 30% only of the gross receipt of the appellant towards services charges whereas it should have been at least 50%. District Attorney for the State defended the impugned orders.

5. We have carefully considered the matter. The appellant was running a canteen in the premises of the Principal Company. The appellant was not paying any rent or license fee for the same. As admitted by counsel for the appellant, the appellant was also not even paying electricity and water charges. The appellant was running a canteen and not a luxury restaurant of high standard. Keeping in view the aforesaid free facilities provided to the appellant by the Principal Company and all other circumstances of the case, we are of the considered opinion that deduction of 30% of gross receipt of the appellant towards services charges cannot be said to be inadequate or on lower side. We find no ground to increase the same.

6. Resultantly, we find no merit in this appeal which is accordingly dismissed.

**HARYANA TAX TRIBUNAL**[Go to Index Page](#)STA 342 OF 2013-14**GUPTA ELECTRICAL HOUSE****Vs****STATE OF HARYANA****JUSTICE L.N. MITTAL (RETD.), CHAIRMAN****SACHIN JAIN, MEMBER**24th April, 2017**HF ► Assessee**

Permission to produce statutory certificates after finalization of assessment order is granted by Tribunal.

STATUTORY FORMS – PERMISSION TO PRODUCE AFTER ASSESSMENT – ITC DISALLOWED DUE TO NON PRODUCTION OF VAT C-4 FORMS – PRAYER TO PRODUCE THEM AFTER FINALIZATION OF ASSESSMENT – PRAYER DECLINED CONTENDING THAT THE SAME WERE IN POSSESSION OF ASSESSEE EVEN BEFORE ASSESSMENT WAS FINALIZED – APPEAL BEFORE TRIBUNAL – PRAYER ALLOWED AS THE FORMS IN QUESTION UNDATED THEREBY RENDERING THE CONCLUSION MADE BY FIRST APPELLATE AUTHORITY BASELESS – ASSESSEE PERMITTED TO PRODUCE THEM BEFORE ASSESSING AUTHORITY – APPEAL ACCEPTED TO THE EXTENT OF PERMITTING PRODUCTION OF FORMS.

Facts

ITC was disallowed to assessee – appellant on grounds of non production of VAT C– 4 certificates. However, it was pleaded before first appellate authority that the appellant was now in possession of those certificates and be allowed to produce the same. The said prayer was disallowed observing that the certificates in question were in possession of assessee before finalization of assessment by assessing authority and not thereafter. Hence, an appeal is filed before Tribunal.

Held:

The certificates obtained are undated and therefore, there is no basis for the authority to conclude that they were in possession before assessment order was passed. The prayer to produce these certificates should be allowed as the selling dealers commit default in issuing VAT certificates for which purchasing dealers should not suffer. The appeal is allowed to the extent of allowing to produce the requisite certificates.

Present: Ms. Ashima Sharma, Advocate proxy counsel for the appellant.
Sh. Deepak Bura, Deputy District Attorney for the State.

JUSTICE L.N. MITTAL, (RETD.) CHAIRMAN

1. This is second appeal by assessee M/s Gupta Electrical House, Faridabad.

2. Assessing Authority, Faridabad (West) vide assessment order dated 07-01-2013 disallowed some Input Tax Credit (ITC) claim of the assessee due to non production of some VAT-C-4 certificates. In first appeal filed by the assessee against the said order, the assessee pleaded that after assessment order passed by the Assessing Authority, balance VAT-C-4 certificates had also been procured by the assessee who be allowed to produce the same before the Assessing Authority. However, first Appellate Authority, Faridabad vide order dated 05-11-2013 dis-allowed the said prayer of the assessee observing that the VAT-C-4 certificates in question now sought to be produced by the assessee had infact been procured by the assessee-appellant before the finalization of the assessment by the Assessing Authority and not thereafter.

3. We have heard counsel for the appellant and Deputy District Attorney for the State and perused the case file.

4. Counsel for the appellant submitted that the appellant is in possession of two VAT-C-4 certificates which be allowed to be produced before the Assessing Authority. It was submitted that the said certificates are undated, but were infact procured after passing of assessment order by the Assessing Authority and not prior thereto. Deputy District Attorney for the State defended the impugned orders of the Authorities below.

5. We have carefully considered the matter. Counsel for the appellant has shown us the two VAT-C-4 certificates sought to be produced. The same are undated. Consequently, there is no basis for observation of the first Appellate Authority that the said VAT C-4 certificates had been obtained by the assessee before finalization of the assessment by the Assessing Authority and not thereafter. The certificates in question being undated, there is no ground to doubt or disbelieve the assertion of the assessee-appellant that the said certificates were infact obtained after passing of assessment order by the Assessing Authority and not prior thereto. In these circumstances, prayer of the assessee-appellant for permitting it to produce the said certificates before the Assessing Authority should be allowed because sometimes the selling-dealers commit default or delay in issuing VAT-C-4 certificates for which the purchasing dealer should not be made to suffer by denying its ITC claim.

6. Resultantly, this appeal is allowed and the case is remanded to the Assessing Authority for the limited purpose of granting reasonable opportunity to the assessee-appellant to produce the two VAT-C-4 certificates in question alongwith other documents, if any required, and to pass appropriate order regarding the same in accordance with law.

**HARYANA TAX TRIBUNAL**[Go to Index Page](#)STA 255 OF 2015-16**RAJBIR SINGH CONTRACTOR****Vs****STATE OF HARYANA****JUSTICE L.N. MITTAL (RETD.), CHAIRMAN****SACHIN JAIN, MEMBER**9th March, 2017**HF ► Revenue**

Sale to Haryana Urban Development Authority is to be taxed @ 12.5%.

RATE OF TAX – CONCESSION – SALES MADE BY ASSESSEE TO HARYANA URBAN DEVELOPMENT AUTHORITY (HUDA)- CONCESSIONAL RATE OF TAX ALLOWED BY ASSESSING AUTHORITY – REVISIONAL AUTHORITY RAISED ADDITIONAL DEMAND HOLDING HUDA TO BE AN AUTONOMOUS BODY INSTEAD OF GOVERNMENT BODY – APPEAL FILED – MATTER COVERED EARLIER IN CASE OF BIJLI NIGAMS CONSIDERED AND HUDA HELD TO BE ON SAME FOOTING AS BIJLI NIGAMS – HENCE, SALE TO HUDA TO BE TAXED @12.5% - APPEAL DISMISSED – INTEREST TO BE LEVIED FROM DATE OF ORDER OF REVISIONAL AUTHORITY AND NOT EARLIER DATE – SECTION 7(3)(b) OF HVAT ACT, 2003.

Facts

The sales made by assessee to HUDA were taxed at a concessional rate of 4% by assessing authority. However, the Revisional authority held it to be an autonomous and not government department and held that concessional rate of tax was not available to assessee on sale to it. An additional demand was thus raised.

Held:

The concessional rate of tax is not available to assessee for sale to HUDA as HUDA stands on same footing as BIJLI Nigams of Haryana (matter covered in an earlier case)

Interest would be charged from the date of order of Revisional Authority and not from an earlier date. The appeal is dismissed except for the modification.

Present: Sh. Avneesh Jhingan, Advocate, Counsel for the appellant.
Sh. M.L. Sharma, District Attorney, for the State.

JUSTICE L.N. MITTAL, (RETD.) CHAIRMAN

1. This is appeal by assessee M/s Rajbir Singh Contractor, Bhiwani challenging order dated 18-03-2015 of the Revisional Authority, Bhiwani.

2. Assessing Authority, Bhiwani allowed concessional tax rate of 4% under Section 7(3)(b) of the Haryana Value Added Tax Act, 2003 (in short, the HVAT Act), as it then existed, for sales made by the assessee to Haryana Urban Development Authority (HUDA). The said concessional rate of tax was available for sales made to Government on furnishing of prescribed certificate by duly authorized officer of the Government. The Revisional Authority in its impugne order held that HUDA is an autonomous and is not a Government Department and hence, the sales made to HUDA could not have been taxed at the concessional rate of 4%. Accordingly the Revisional Authority taxed the sales made by the assessee to HUDA at normal rate of 12.5% and created additional demand. Hence this appeal by the assessee.

3. We have heard counsel for the appellant and District Attorney for the State and perused the case file.

4. Counsel for the appellant reiterated that the appellant is entitled to benefit of concessional rate of tax for sales made to HUDA which is Government Department. District Attorney for the State defended the impugned order of the Revisional Authority.

5. We have carefully considered the matter. The case is covered against the assessee-appellant by decision dated 11/21.12.2009 of this Tribunal in STA 407 of 2009-10 M/s Mahindra and Mahindra Ltd., Karnal vs. State of Haryana. In that case, it was held that concessional rate of tax of 4% is not applicable for sales made to Bijli Nigams of Haryana being not Government Department. HUDA stands on the same footing as Bijli Nigams of Haryana. Consequently the assessee-appellant in this case is not entitled to concessional rate of tax of 4% under section 7(3)(b) of the HVAT Act, as it then existed, for sales made to HUDA.

6. Counsel for the appellant also submitted that interest on additional demand created for the first time by impugned order of the Revisional Authority is not chargeable under Section 14(6) of the HVAT Act, as erroneously directed in the impugned order.

7. We have considered the matter. Law on this point is well settled. Interest on additional demand of tax created for the first time by Revisional Authority is chargeable from the date of order of Revisional Authority and not from any earlier date. It is ordered accordingly in modification of impugned order of the Revisional Authority.

8. Counsel for the appellant also submitted that interest on additional demand created for the first time by impugned order of the Revisional Authority is not chargeable under Section 14(6) of the HVAT Act, as erroneously directed in the impugned order.

9. We have considered the matter. Law on this point is well settled. Interest on additional demand of tax created for the first time by Revisional Authority is chargeable from the date of order of Revisional Authority is chargeable from the date of order of Revisional Authority and not from any earlier date. It is ordered accordingly in modification of impugned order of the Revisional Authority.

10. Except for modification of the impugned order as made in the preceding paragraph, this appeal is dismissed.

**HARYANA TAX TRIBUNAL**[Go to Index Page](#)**STA 359 OF 2012-13****HARYANA FOILS LIMITED
Vs
STATE OF HARYANA****JUSTICE L.N. MITTAL (RETD.), CHAIRMAN****SACHIN JAIN, MEMBER**16th May, 2017**HF ► Revenue**

No input tax credit is allowed on purchase of truck unless it is used exclusively for manufacturing process.

INPUT TAX CREDIT – TRUCK – CAPITAL GOODS – TRUCK, TYRES AND TUBES PURCHASED BY APPELLANT ALLEGEDLY FOR MANUFACTURING PROCESS – INPUT TAX CREDIT DISALLOWED THEREON – HELD: TRUCK OUGHT TO BE USED AS AN INTEGRAL PART OF MANUFACTURING PROCESS AND NOT TO TRANSPORT FINISHED GOODS OR RAW MATERIAL – NO DOCUMENT PRODUCED TO PROVE TRUCK IN QUESTION USED EXCLUSIVELY FOR MANUFACTURING PROCESS – DOCUMENTS PRODUCED RELATE TO SUBSEQUENT YEAR LEADING TO ADVERSE INFERENCE – TYRES AND TUBES PURCHASED MUCH EARLIER THAN PURCHASE OF TRUCK – INPUT TAX CREDIT RIGHTLY DISALLOWED - APPEAL DISMISSED – SECTION 2(1)(g) OF HVAT ACT, 2003

Facts

The appellant is engaged in manufacturing of cold rolled strips. During the assessment year 2008-09, the assessee had purchased one truck and also tyres and tubes of the truck and claimed ITC thereon alleging that the trucks were used in the process of manufacturing. The Input tax credit was disallowed. An appeal is thus filed before Tribunal.

Held:

If a truck is exclusively used for transporting material and is an integral part of manufacturing, then input tax credit may be claimed on purchase of it.

In the case in hand, the documents produced to support the claim pertain to 2009-10. Therefore, adverse inference is drawn. Moreover, tyres were purchased in 2008 and truck later in 2009 which proves that they were not purchased for the truck in question. No challans have been produced for transporting material for job work for year 2008-09. No log book is produced. Assessing authority observed that the truck was purchased for transporting goods for sale and not for manufacturing process. The appeals are dismissed.

Present: Sh. Shiv Rattan, Advocate Counsel for the appellant.

Sh. N.K. Gupta, J.D.(L) for the State.

JUSTICE L.N. MITTAL, (RETD.) CHAIRMAN

1. By this common order, we are disposing off two second appeals STA 359 of 2012-13 filed by assessee M/s Haryana Foils Limited, Bhiwani and STA 360 of 2012-13 filed by assessee M/s Suma Fibres & Allies Limited, Bhiwani because common issue is involved in both these appeals.

2. Both the assesseees are engaged in manufacturing of Cold Rolled Strips. During the relevant assessment year 2008-09, the assesseees purchased one truck each and also tyres and tubes of the trucks and claimed Input Tax Credit (ITC) thereon alleging that the trucks were used in the process of manufacturing. However, the Authorities below have disallowed the said ITC claim of the assesseees. That is the only the issue that was canvassed before us during the hearing by counsel for the appellant.

3. We have heard counsel for the appellant and State Representative and perused the case files.

4. Counsel for the appellant vehemently contended that the assesseees used the trucks during the process of manufacturing for transporting materials to the factory of each other for slitting of the material on job work and, therefore, ITC on purchase of trucks and tyres and tubes thereof should be allowed. It was submitted that the trucks were not used for transporting raw material from outside to the factories of the assesseees nor for transporting finished goods from the factories to outside for or by way of sale. It was also argued that the trucks and tyres and tubes have been capitalised under the Haryana Value Added Tax Act, 2003 (in short, the HVAT Act) and, therefore, fall within the definition of 'capital goods' as defined in section 2(l)(g) of the HVAT Act. It was contended that use of trucks in the aforesaid manner was integral part of the process of manufacturing and, therefore, ITC thereon should be allowed. Reliance has been placed on judgments of Hon'ble Supreme Court in the cases of J.K. Cotton Spinning & Weaving Mills Co., Ltd. V/s The Sales Tax Officer, Kanpur and Another (1965) 16 STC 563 (SC) and Indian Copper Corporation Ltd. V/s Commissioner of Commercial Taxes, Bihar and Others (1965) 16 STC 259 (SC) and order dated 27.06.1988 of a single Member of Sales Tax Tribunal, Haryana in STA no. 372 of 1986-87 M/s Jain Spun Pipe Co., village Haluwas, Bhiwani V/s The State of Haryana. Reference was also made to various documents produced in these appeals regarding purchase of raw material and transportation of material by the assesseees to the factory of each other for job work during the process of manufacturing.

5. On the other hand, State Representative contended that trucks and tyres and tubes thereof are not plant, machinery, dies, tools and equipment and, therefore, do not fall in the definition of 'capital goods' given in section 2(l)(g) of the HVAT Act. It was also argued that slitting of bigger coils into smaller pieces does not fall within the definition of 'manufacture' as given in section 2(l)(x) of the HVAT Act as it does not result into different commercial goods. It was also submitted that the trucks were used for transportation of raw materials and finished goods and not in the process of manufacturing of goods and, therefore, ITC on purchase of trucks and tyres and tubes thereof has been rightly disallowed by the Authorities below. Reliance has been placed on two decisions of the Tribunal i.e. order dated 23.08.2011 in STA no. 151 of 2010-11 M/s Shiv Shankar Rice & General Mills, Jagadhri V/s State of Haryana and order dated 08.01.2013 in STA no. 54 of 2012-13 M/s Himgiri Industries, Rohtak V/s State of Haryana.

6. In rebuttal, counsel for the appellant submitted that judgements in the cases of M/s Shiv Shankar Rice & General Mills (supra) and M/s Himgiri Industries (supra) rather support the case of the appellant because if the trucks are used for transporting raw materials and

finished goods, then ITC on purchase of trucks is not admissible, but in the present cases, the trucks were used for transporting materials from one factory to another during the process of manufacturing, for job work of slitting and, therefore, ITC on purchase of trucks and tyres and tubes thereof is admissible.

7. We have carefully considered the matter. From the judgments cited by both the sides, it emerges that if a truck is used for transporting raw materials or finished goods, then ITC on purchase thereof is not admissible. Conversely, if a truck is used exclusively for transporting material in intermediate stage(s) of the process of manufacturing and is integral part of the process of manufacturing, then ITC may be admissible on purchase of truck/tyres and tubes thereof. These appeals have to be adjudicated in the light of the aforesaid principles of law.

8. Firstly taking up STA no. 359 of 2012-13 filed by M/s Haryana Foils Limited. Assessing authority in its order has observed that the documents submitted by the assessee along with written reply do not relate to the case under process. This observation of the Assessing Authority is fully borne out from the documents produced before us also. Some Tax Invoices dated 15-04-2009 regarding purchase of material by the assessee-appellant from Steel Authority of India Limited have been produced. The present appeal relates to assessment year 2008-09 ending on 31-03-2009. So, The Tax Invoices dated 15-04-2009 do not relate to the present case. Similarly challans issued by the assessee-appellant for sending materials for job work to M/s Suma Fibres & Allies Ltd. and also challans by the later for return of the materials after job work to the assessee-appellant are from May, 2009 to July, 2009 and, therefore, the same do not relate to the assessment year 2008-09 in question. Similarly photocopy of register regarding job work also relates to assessment year 2009-10 and not to assessment year 2008-09 which is under assessment. So these documents have been rightly rejected by the Assessing Authority in support of claim of the assessee that the truck was used for carrying material for job work.

9. In addition to the aforesaid, it is worth mentioning that documents for the assessment year 2008-09 in question have not been produced by the assessee-appellant and, therefore, adverse inference arises against it. Besides it, the truck was purchased in March, 2009 whereas tyres and tubes were purchased much prior to it in October, 2008 and in January, 2009 and, therefore, it cannot be said that these were purchased for this truck. It means that the assessee appellant also had other truck(s). However, no challans thereof for assessment year 2008-09 in question have been produced for transporting material for job work. Even log book of any truck was not produced nor other documents in support of claim of the appellant were produced to show that the truck was used exclusively for purposes integral with the manufacturing processes. Assessing Authority has rather observed that the assessee used the truck for transporting manufactured goods for sale which is not part of the manufacturing process.

10. Now coming to STA no. 360 of 2012-13 filed by M/s Suma Fibres & Allies Ltd. In this case, some tax invoices of purchase of material and challans for transporting material to M/s Haryana Foils Ltd for job work and copy of register of job work for the relevant assessment year 2008-09 have been produced.

11. However, merely on the basis thereof, it cannot be said that the truck was **exclusively** used for transporting material for job work only during the process of manufacturing. Both the assessee are situated in the vicinity of each other, being in plot no. 15 and plot no. 18 in the same Industrial Area. Consequently it cannot be said that the present assessee-appellant maintained a truck exclusively for transporting material for job work to nearby unit by making a few trips in a month. Moreover, log book of the truck was also not produced despite demand by the Assessing Authority. In this case also, the Assessing Authority has observed that the truck was used for transporting manufactured goods for sale.

12. For the reasons aforesaid, we find that both the assesseees have failed to establish that the trucks were used **exclusively** for transporting material for job work at intermediate stage of manufacturing process and as integral part of the manufacturing process. Consequently ITC on purchase of trucks and tyres and tubes has been rightly disallowed by the Authorities below.

13. For the reasons aforesaid, both these appeals are dismissed being devoid of merit.

**HARYANA TAX TRIBUNAL**[Go to Index Page](#)**STA 258 OF 2013-14****BALAJI INFRATECHON PVT. LTD.****Vs****STATE OF HARYANA****JUSTICE L.N. MITTAL (RETD.), CHAIRMAN****SACHIN JAIN, MEMBER****2nd May, 2017****HF ► Assessee**

Assessee allowed to produce Statutory forms post assessment as initial failure to do so was due to daughter's illness.

STATUTORY FORMS – PRODUCTION OF - ILLNESS – OPPORTUNITY TO PRODUCE STATUTORY FORMS- INPUT TAX CREDIT DISALLOWED – APPEAL FILED CONTENDING THAT FAILURE TO DO SO WAS ON ACCOUNT OF DAUGHTER'S SERIOUS ILLNESS – MEDICAL RECORD PRODUCED AS EVIDENCE – OPPORTUNITY TO PRODUCE THE DOCUMENTS SOUGHT - PRAYER GRANTED – APPEAL ALLOWED WITH ANOTHER OPPORTUNITY TO PRODUCE THE DOCUMENTS.

Facts

The input tax credit was disallowed as the assessee had failed to produce VAT C-4 forms. It is contended that the failure to do so was on account of serious illness of daughter of assessee – appellant. One more opportunity to produce the same has been prayed for.

Held:

Medical records produced show that the stated facts are true. The interest of revenue will not suffer if matter is re adjudicated.

The appeal is allowed and the assessee is permitted to produce the documents before assessing authority.

Present: Sh. Rajiv Agnihotri, Advocate counsel for the Appellant.
Sh. S.K. Saini, J.D.(L) for the State.

JUSTICE L.N. MITTAL, (RETD.) CHAIRMAN

1. This is second appeal by assessee M/s Balaji Infratechon Pvt. Ltd., Rewari.

2. Alongwith appeal, appellant has filed application for condonation of delay of 30 days in filling the appeal. Heard. For reasons mentioned in the application accompanied by medical record, the application is allowed and small delay of 30 days in filling the appeal is condoned.

3. Input Tax Credit (ITC) claim of the assessee-appellant has been disallowed by the Authorities below because the appellant failed to produce tax invoices, VAT-C-4 certificates and accounts books etc.

4. We have heard counsel for the appellant and State Representative and perused the case file.

5. Counsel for the appellant submitted that the appellant could not produce requisite documents before the Authorities below due to serious illness of daughter of director of the assessee-appellant. Counsel for the appellant prayed that one opportunity be granted to the appellant to produce requisite documents before the Assessing Authority. The prayer has been opposed by State-Representative because the appellant failed to produce the documents even before the first Appellate Authority.

6. We have carefully considered the matter. Small amount of revenue is involved. Medical record placed on the file reveals that daughter of director of the appellant was suffering from illness for a long time. Consequently there was no appearance on behalf of the appellant before both the Authorities below. In these circumstances, we are inclined to allow the aforesaid prayer of the counsel for the appellant. The interest of revenue will not suffer in any manner by doing so because the Assessing Authority will then adjudicate the question again in accordance with law.

7. Resultantly, this appeal is allowed. Impugned orders of both the Authorities below are set aside and the case is remanded to Assessing Authority, Rewari for fresh decision in accordance with law after giving reasonable opportunity to the assessee to produce all the required documents. The assessee is directed to appear before the Assessing Authority on 29-05-2017 for which no further notice is required to be issued to the assessee by the Assessing Authority.

**HARYANA TAX TRIBUNAL**[Go to Index Page](#)STA 454 OF 2013-14**BAMBINO AGRO INDUSTRIES LTD.****Vs****STATE OF HARYANA****JUSTICE L.N. MITTAL (RETD.), CHAIRMAN****SACHIN JAIN, MEMBER**4th May, 2017**HF ► Assessee**

Gap between the date of dispatch of goods and arrival of goods not long enough to suggest repeated transaction on basis of same set of documents.

PENALTY – ATTEMPT TO EVADE TAX – INGENUINE DOCUMENTS – GOODS IN TRANSIT INTERCEPTED AT 8.00 AM ON JANUARY 8 – DOCUMENTS PRODUCED SHOWING DATE OF DISPATCH AS JANUARY 4- GOODS DISPATCHED ON JANUARY 7 BY TRANSPORTER AT 8.40 PM – PENALTY IMPOSED SUSPECTING EVASION ON GROUNDS OF LONG GAP BETWEEN DATE OF DISPATCH AND DATE OF DOCUMENTS – PENALTY DELETED AS TIME GAP IS NOT ABNORMALLY HIGH TO SUGGEST REPEATED TRANSACTION ON BASIS OF SAME SET OF DOCUMENTS – VAT D3 PRODUCED FURTHER FORTIFYING THE CONCLUSION OF GENUINE TRANSACTION – APPEAL ACCEPTED – SECTION 31 OF HVAT ACT, 2003

Facts

The vehicle carrying goods was intercepted on January 8 at 8.00 am. Documents were produced. On finding that there was a gap in the date of documents and date of checking, goods were detained suspecting that the documents had been reused. Penalty u/s 31 of the Act was imposed. An appeal is thus filed before Tribunal.

Held:

VAT D -3 forms accompanying the goods established beyond doubt that it was not second transaction on basis of same set of documents. The goods given to transporter on the 4th were dispatched on 7th at 8.40 p.m. It cannot be said that they took abnormally long time to for the goods to reach Faridabd from Rohtak. The same vehicle could not have been used twice during the night itself. Therefore, there was no attempt to evade tax. Penalty is deleted and appeal is accepted.

Present: Mr. C.S. Gupta, Advocate Counsel for the appellant.
Sh. Dinesh Bajaj, District Attorney for the State.

JUSTICE L.N. MITTAL, (RETD.) CHAIRMAN

1. This is second appeal by assessee M/s Bambino Agro Industries Ltd., Gurgaon through C&F Agent M/s Sindhwani Marketing Services, Rohtak, challenging orders of the Authorities below imposing penalty of Rs. 1,46,212/- on the assessee-appellant under section 31 (8) of the Haryana Value Added Tax Act, 2003 (in short, the HVAT Act), besides levying advance tax of Rs. 63,992/-.

2. On 08-01-2013 at 8.00 AM, Assistant Excise and Taxation Officer (Enforcement)-cum-Taxing Authority, Faridabad (West) (in short, the Checking Officer), during the course of roadside checking in Old Faridabad, intercepted vehicle No. HR 63B 1961 carrying confectionery items. On demand, Kaptan, Incharge of goods produced following documents i.e. two GRs dated 04-01-2013 from Rohtak to Faridabad; two invoices dated 31-12-2012 issued by the assessee-appellant from Rohtak in favour of Chawla Traders, Old Faridabad; two VAT-D-3 outward challans; and challan dated 07-01-2013 of the transporter. The checking Officer detained the goods under section 31 (6) of the HVAT Act and after necessary proceedings, found that there was deliberate attempt at evasion of the due tax because of the gap in the dates of documents and the date of checking. Accordingly, the Checking Officer vide order dated 01-02-2013 levied penalty and advance tax. First appeal preferred by the assessee against the said order has been dismissed by first Appellate Authority, Faridabad vide order dated 25-11-2013. Hence this second appeal by the assessee.

3. We have heard counsel for the appellant and District Attorney for the State and perused the case file.

4. Counsel for the appellant contended that the goods were given to the transporter on 04-01-2013 vide GRs dated 04-01-2013 in which no vehicle No. is mentioned. The transporter dispatched the goods on 07-01-2013 by challan dated 07-01-2013 which accompanied the goods. It was contended that VAT-D-3 Forms accompanying the goods have the date and time of dispatch as 07-01-2013 at 8.40 PM from Rohtak and the goods were checked at Old Faridabad on 08-01-2013 at 8.00 AM and so there was no question of second or repeat transaction on the basis of same set of documents. District Attorney for the State defended the impugned orders for the reasons stated therein and contended that even if the goods were dispatched on 07-01-2013 at 8.40 PM from Rohtak, it would not have taken 11 hours to reach Old Faridabad.

5. We have carefully considered the matter. We find merit in contentions of counsel for the appellant. VAT-D-3 Forms accompanying the goods conclusively establish beyond doubt that it was not second or repeat transaction on the basis of the same set of documents. These forms depict that the goods were dispatched from Rohtak on 07-01-2013 at 8.40 PM. Therefore, it cannot be said that abnormally long time was taken for the goods to be taken from Rohtak to Faridabad. Vehicle no. is also correctly mentioned in the said forms. The same vehicle could not have made two trips between Rohtak and Faridabad during the night itself including the loading and unloading of goods twice. It is thus established that it was a genuine transaction and not a repeat or second transaction on the basis of same set of documents. This conclusion is further strengthened by transporter's challan dated 07-01-2013 accompanying the goods. This challan read with VAT-D-3 Forms establishes that the goods were dispatched on 07-01-2013 for the first time and not as repeat or second transaction. Conclusion of the Authorities below based on gap between the dates of invoices and GRs and the date of checking cannot be accepted because the goods were not actually dispatched on 31-12-2012-the date of invoices or on 04-01-2013-the date of GRs in which even vehicle no. is not mentioned. The goods were actually dispatched on 07-01-2013 at 8.40 PM as per transporters challan and VAT-D-3 Forms.

6. For the reasons aforesaid, we find that there was no attempt by the assessee-appellant to evade the tax and, therefore, penalty under section 31(8) of the HVAT Act could not be imposed. It was a genuine transaction of goods accompanied by proper documents.

7. Resultantly, this is allowed. Impugned orders of both the Authorities below are set aside.

**HARYANA TAX TRIBUNAL**[Go to Index Page](#)**STA766-767 OF 2014-15****ATLAS FIRETECH PVT. LTD.****Vs****STATE OF HARYANA****JUSTICE L.N. MITTAL (RETD.), CHAIRMAN****SACHIN JAIN, MEMBER**27th April, 2017**HF ► Revenue**

Fire extinguishers used in railway coaches are an unclassified items and are taxable @ 12.5%.

ENTRIES IN SCHEDULE - FIRE EXTINGUISHERS- FIRE EXTINGUISHERS MANUFACTURED AND SOLD TO RAIL COACH FACTORY – TAX DEPOSITED @4 % CONTENDING IT TO BE COMPONENTS OF RAILWAY COACHES – TAX LEVIED @12.5% - APPEAL FILED – TAX LEVIABLE @12.5% AS THE GOODS IN QUESTION ARE ACCESSORY AND NOT AN INTEGRAL PART OF RAILWAY COACHES – APPEAL DISMISSED – GOODS COVERED UNDER UNCLASSIFIED ITEMS AND NOT UNDER SCHEDULE C OF THE ACT – HVAT ACT, 2003

Facts

The appellant is a manufacturer of Fire Extinguishers to Rail Coach Factory. It deposited tax @ 4% claiming goods to be covered by entry 72 of schedule C to HVAT Act as being components of Railway coaches as per declarations given by RCF. However, tax @12.5% was levied contending that the goods in question were not spares and parts. An appeal is thus filed alongwith with an alternative prayer to grant opportunity to produce C forms.

Held:

Fire extinguishers are not integral part of coaches. They are an 'accessory' or an additional thing. They are not covered under entry 72.

The alternative prayer to produce C forms to claim concessional rate of tax under CST is allowed.

The appeals are dismissed except that the appellant is allowed to produce C forms.

Present: Rajiv Agnihotri, Advocate Counsel for the appellant.
Sh. S.K. Saini J.D.(L) for the State.

JUSTICE L.N. MITTAL, (RETD.) CHAIRMAN

1. These are two seconds appeals by the same assessee M/s Atlas Firetech Pvt. Ltd., Sonapat for assessment year 2008-09 i.e. one appeal under the Haryana Value Added Tax Act, 2003 (in short, the HVAT Act) and the other under the Central Sales Tax Act, 1956 (in short, the CST Act).

2. The appellant is manufacturer of Fire Extinguishers at sonapat. During the year in question, the assessee-appellant sold Fire Extinguishers to Rail Coach Factory (RCF), Kapurthala and charged and deposited tax at the rate of 4% claiming the goods to be covered by entry 72 of Schedule C to the HVAT Act as being components of Railway Coaches as per declarations given by RCF. However, the Authorities below have found that Fire Extinguishers are not spares and parts of rail coaches and are, therefore, not covered by aforesaid entry No. 72 and accordingly levied tax at the rate of 12.5% as unclassified item and also levied interest.

3. We have heard counsel for the appellant and State Representative and perused the case files.

4. Counsel for the appellant contended that Fire Extinguishers are parts of Railway Coaches and are, therefore, covered by aforesaid entry No. 72 and, therefore, liable to be taxed at the rate of 4%. Reference in this regard was made to letter dated 12.07.2011 of RCF, Kapurthala addressed to the assessee (copy given during the course of hearing alongwith copies of purchase orders etc.) intimating that the Fire Extinguishers purchased from the assessee-appellant were for use as coach components in Railway Coaches only. In the alternative,, it was prayed that opportunity be given to the assessee-appellant to produce C forms for concessional rate of tax under the CST Act on interstate sales of the Fire Extinguishers.

5. State Representative contended that Fire Extinguishers are not spares and parts of railway coaches and are, therefore, not covered by aforesaid entry No. 72 and have been rightly subjected to tax at the rate of 12.5% as unclassified item.

6. Before proceeding further, entry No, 72 of schedule C to the HVAT Act is reproduced hereunder:-

"72 Rail Coaches, engines and wagons, spares and parts thereof".

7. We have carefully considered the matter. Fire Extinguishers cannot be said to be integral parts of rail coaches. They are added or installed as fire safety measure to the coaches. Consequently Fire Extinguishers are at best an 'accessory' to railway coaches being an additional or extra thing or a small attachment or fitting. Accessories of railway coaches are not covered by aforesaid entry No. 72. Communication dated 12.07.2011 of RCF, Kapurthala that Fire Extinguishers are used as coach components in railway coaches only, also does not hold the assessee-appellant because the said communication does not mention that Fire Extinguishers are spares or parts of railway coaches. 'Component' cannot be said to be the same thing as 'spares and parts'. It is thus apparent that Fire Extinguishers are not spares and parts of railway coaches and are, therefore, not covered by aforesaid entry no. 72 and are accordingly liable to be taxed as unclassified item. Consequently there is no error in impugned orders of the Authorities below in levying tax on sale of Fire Extinguishers as unclassified item.

8. However, alternative prayer of counsel for the appellant for grant of opportunity to the assessee-appellant to produce C forms to claim concessional rate of tax under the CST Act has to be allowed because no such opportunity was given to the assessee-appellant by the Authorities below.

9. Resultantly both these appeals are dismissed except that the case under the CST Act is remanded to the Assessing Authority to give reasonable opportunity- to the assessee-appellant to produce C forms in support of its claim for concessional rate of tax under the CST Act and to pass appropriate order in accordance with law if any such C forms are produced.

**HARYANA TAX TRIBUNAL**[Go to Index Page](#)**STA 1053 TO 1055 OF 2004-05**

**S.K. ENTERPRISES
Vs
STATE OF HARYANA**

JUSTICE L.N. MITTAL (RETD.), CHAIRMAN**SACHIN JAIN, MEMBER**24th April, 2017**HF ► Assessee***Purchase of paddy is to be excluded from taxable turnover when sold to a miller for export*

TAXABLE TURNOVER – PADDY – PURCHASE TAX – PURCHASE TAX LEVIED ON PURCHASE OF PADDY SOLD TO A MILLER FOR EXPORT OF RICE – APPEAL FILED – MATTER COVERED BY AN EARLIER CASE DECIDED BY HIGH COURT – APPEALS ARE THEREFORE ALLOWED – SECTION 27 OF HGST ACT, 1973

Facts

The assessee appellant purchased paddy and sold the same to the dealer outside Haryana who after milling it exported rice. Purchase tax was levied on the assessee u/s 6. Thus, appeal is being filed contending that the turnover of aforesaid paddy was liable to be excluded from taxable turnover in view of S.27 of HGST Act.

Held:

The issue raised is covered by an earlier case decided by supreme court. Therefore, the appeal is allowed and orders of Revisional authority are set aside.

Present: Mr. K.K. Gupta, Advocate counsel for the appellant.
Sh. Deepak Bura, Deputy District Attorney for the State.

JUSTICE L.N. MITTAL, (RETD.) CHAIRMAN

1. These are three appeals by the same assessee M/s S.K. Enterprises, Janta Mandi, Karnal for assessment years 1998-99, 1999-2000 and 2000-01, involving common issue.

2. The assessee-appellant purchased paddy and sold the same to a dealer of Gaziabad (outside Haryana) who after milling the paddy exported the rice. Revisional Authority, Karnal vide separate impugned orders all dated 01-03-2005 has levied purchase tax on the assessee

under section 6 of the Haryana General Sales Tax Act, 1973 (in short, the HGST Act). Hence these appeals by the assessee.

3. We have heard the counsel for the appellant and Deputy District Attorney for the State and perused the case files.

4. Counsel for the appellant contended that the turnover of aforesaid purchase of paddy was liable to be excluded from taxable turnover (TTO) in view of section 27 of the HGST Act. Reliance has been placed on judgment dated 15-07-2010 of Hon'ble High Court in the case of Mahavir Parsad Lakhmi Chand V/s State of Haryana and others (2010) 37 PHT 43(P&H). SLP Nos. 9878-9901 of 2011 preferred by the State against the said judgment were dismissed by Hon'ble Supreme Court vide order dated 07.07.2011. Judgment in the case of M/s Mahavir Parsad Lakhmi Chand (supra) was also followed by the Hon'ble High Court in the case of M/s Kidar Singh Virender Singh V/s The State of Haryana and others (2012) 43 PHT 524 (P&H). Deputy District Attorney for the State defended the impugned orders in view of charging section 6 of the HGST Act.

5. We have carefully considered the matter. The issue raised in these appeals is covered in favour of the assessee-appellant by the cases of M/s Mahavir Parsad Lakhmi Chand (supra) and M/s Kidar Singh Virender Singh (supra).

6. Resultantly, all these three appeals are allowed and impugned orders of the Revisional Authority are set-aside.

**CLARIFICATION (Haryana)**[Go to Index Page](#)

BEFORE THE ADDITIONAL CHIEF SECRETARY TO
GOVERNMENT, HARYANA,
EXCISE AND TAXATION DEPARTMENT

Queriest: IAN MACLEOD DISTILLERS INDIA PVT. LTD.

15th June, 2017

Sale of imported liquor from custom bounded warehouse to Airport duty free shops for further sale to passengers is not subject to levy of VAT / CST.

IMPORTED LIQUOR – DUTY FREE SHOPS – WHETHER IMPORTED LIQUOR SOLD TO AIRPORT DUTY FREE SHOPS FROM CUSTOM BOUNDED WAREHOUSE IS SUBJECT TO VAT/CST – HELD: NO, THE TRANSACTIONS TAKING PLACE BETWEEN CUSTOM BOUNDED WAREHOUSE AND AIRPORT DUTY FREE SHOPS IS BEYOND THE CUSTOM FRONTIERS OF INDIA – THEREFORE, VAT/ CST IS NOT LEVIABLE- SECTION 5 OF CST ACT, 1956.

Facts

The applicant is engaged in import of foreign liquor from outside country without payment of custom duty and additional excise duty. The goods are transferred to Airport duty free shops from custom bonded warehouse and are sold to passengers arriving in India or going abroad from India. A clarification is sought as to whether VAT/ CST is leviable on sale of imported liquor from custom bonded warehouse to airport duty free shops.

Held:

In light of a judgment passed by Supreme Court of India, the transactions of sale from customs bonded warehouse to airport duty free shops takes place outside the custom frontiers of india and therefore are not subject to levy of VAT or CST.

ORDER

M/s Ian Macleod Distillers India Pvt. Ltd., Gurugram, having TIN 06081830883 has sought clarification under section 56(3) of Haryana Value Added Tax Act, 2003 on the following question:

Question: Clarification of leviability of CST and VAT under Inter State sale to Airport Duty Free Shops?

1. As per the Statement of facts submitted by the applicant and also narrated during the course of personal hearing, the applicant has disclosed that it is engaged in import of foreign liquor from outside the country without payment of custom duty and additional excise duty. The goods so imported are kept in Custom Bonded Warehouse at ICD

Gurgaon. The Goods are then transferred under Bond to Bond on monthly basis to Airport Duty Free Shops. The duty free shops sell the Imported Foreign Liquor received from Custom Bonded Warehouse to the passengers going out of India or arriving in India. Clarification has been sought on the levy of VAT/CST on the sale of imported bottled liquor from Custom Bounded Warehouse to the Airport Duty Free Shops.

2. It has been stated by the applicant that the list of Goods (description, bill of entry no, date, bond expiry date, quantity, assessable value, customs duty) is prepared and submitted to the Customs Office where the Airport Duty Free Shop is located. The Customs officer issues a Space Certificate for the value and quantity as per the list of goods. Based on the Space Certificate, the origin Customs Officer permits the movement/transfer of goods from one warehouse to another (Duty Free Shop) under customs escort. On receipt of the goods in the warehouse, the customs official issues the re-warehousing certificate confirming the receipt of goods.
3. The matter has been examined. As per Section 2(11) of the Customs Act, 1962, a 'custom area' "means the area of a custom station and includes any area in which imported goods or export goods are ordinarily kept before clearance by the custom". The Airport duty free shops and the Custom Bonded Warehouse thus come within the definition of the 'custom area'. The public and private warehouse are appointed under Section 57 and 58 of the Customs Act, 1962.
4. As per article 286 (1)(b) of the Constitution of India, no law of State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place - in the course of import of the goods into, or export of the goods out of, the territory of India. Section 5(2) of the CST Act, 1956 provides that a sale or purchase of goods shall be deemed to take place in the course of the import of the goods into the territory of India only if the sale or purchase either occasions such import or is effected by a transfer of document of title to the goods before goods have crossed the customs frontiers of India.

"Crossing the customs frontiers of India" have been defined in Section 2(ab) of the CST Act, 1956, which 'means crossing the limits of the area of a customs station in which imported goods or export goods are ordinarily kept before clearance by customs authorities'.

Explanation: for the purposes of this clause, "customs station" and "customs authorities" shall have the same meanings as in the Customs Act, 1962 (52 of 1962).

5. The issue, whether the sale/transfer of goods from Custom Bonded Warehouse to Airport Duty Free Shops and finally sale of such goods to the customers by the Airport Duty Free Shops are liable to levy of tax, was decided by the Hon'ble Supreme Court on 03.02.2012 in the case of M/s Hotel Ashoka (Indian Tourism Development Corporation Ltd.) Vs. Assistant Commissioner of Commercial Taxes and another. In the aforesaid matter, the Hon'ble Supreme Court during the course of judgment observed that:-

“It is an admitted fact the goods which had been brought from foreign countries by the appellant had been kept in the bonded warehouses and they were transferred to duty free shops situated at International Airport, Bengaluru as and when the stocks of goods lying at the duty free shops was exhausted. It was also admitted that the appellant had executed bonds and the goods, which had been brought from foreign countries, had been kept in bonded warehouses by the appellant. When the goods are kept in bonded warehouses, it cannot be said that the said goods had crossed the custom frontiers. The goods are not cleared from the customs till they are brought in India by crossing the custom frontiers. When the goods are lying in the bonded warehouses, they are deemed to have been kept outside the custom frontiers of the country and as stated by the Ld. Senior Counsel appearing for the appellant, the appellant was selling the goods from the duty free shops owned by it at Bengaluru International Airport before the said goods had crossed the customs frontiers”.

The Hon’ble Supreme Court also observed that:-

“Looking at the aforestated legal position, it cannot be disputed that the goods sold at the duty free shops, owned by the appellant, would be said to have been sold before the goods crossed the customs frontiers of India, as it is not in dispute that the duty free shops of the appellant situated at the International Airport of Bengaluru are beyond the customs frontiers of India i.e. they are not within the customs frontiers of India”.

6. In the light of the above judgment of the Hon’ble Supreme court of India and the provisions contained in Article 286(1)(b) of the Constitution of India, and the provisions of Section 5(2) and 2(ab) of the CST Act, 1956, the transactions of transfer/sale from Custom Bonded Warehouse to the Airport Duty Free Shops takes place beyond or outside the customer on tiers of India and, therefore, are not subject to levy of CST or VAT.

The matter is clarified accordingly.

**CLARIFICATION (Haryana)**[Go to Index Page](#)

BEFORE THE ADDITIONAL CHIEF SECRETARY TO
GOVERNMENT, HARYANA,
EXCISE AND TAXATION DEPARTMENT

Queriest: FOODGRAINS ASSOCIATION (VYAPAR MANDAL)

25th June, 2017

All kinds of pulses like gram and gulab gram are exempted from levy of VAT under the HVAT Act.

PULSES – GRAM , GULAB GRAM – ENTRIES IN SCHEDULE – GOODS IN QUESTION HAVE BEEN MENTIONED AS PULSES AND ARE DECLARED GOODS UNDER THE CST ACT –ENTRY 3C READS AS ‘ALL KINDS OF PULSES’ UNDER THE LOCAL ACT – THUS, GOODS ARE EXEMPTED FROM VAT BEING COVERED UNDER ENTRY 3C OF SCHEDULE B.

Facts

The dealers engaged in trading of pulses, Gram, Gulab gram, have sought a clarification if these are covered under Schedule B entry 3C of the Act.

Held:

The products mentioned are classified as pulses in section 14(iv a) under central sales Tax Act, 1956 and are declared goods. Therefore, they exempted for VAT being covered under Entry 3C of schedule B from September 1, 2014.

ORDER

1. M/s Foodgrains Association (Vyapar Mandal), Mewat, a body of dealers has sought clarification under section 56(3) of the Haryana Value Added Tax Act, 2003 on the following question:-

“Whether Gram or Gulab Gram, Arhar, Moong, Masoor, Urad, Moth, Lakh are covered by Entry 3C of Schedule-B appended to the HVAT Act, 2003?”

2. As per statement of facts narrated by the applicant, the Foodgrain Association (Vyapar Mandal), Anaj Mandi, Tauru, Mewat is comprised of approximately 50 registered VAT dealers. All are engaged in the business of trading of Foodgrains, Pulses, Oilseeds etc. As per understanding and interpretation of law by the applicant, the goods under consideration are covered under Entry 3C of the Schedule B.

3. The matter has been examined. Section 14 of the Central Sales Tax Act, 1956 contains the list of goods of special importance also known as the declared goods. As per Section 14(vi a) gram or gulab gram, arhar, moong, masoor, urad (black gram), mooth and lakh

have been mentioned in the category of pulses. Entry 3C of Schedule B (list of exempted goods) reads as under: -

“3C All kinds of pulses.”

Entry 3C has been inserted in Schedule B appended to the HVAT Act, 2003 vide notification dated 26.08.2014. The said Entry has been made applicable with effect from 01.09.2014.

The products referred in the application for clarification are ‘pulses’ as mentioned in Section 14(iv a), and, therefore, are exempted from levy of VAT with effect from 01.09.2014 being covered by Entry 3C of Schedule-B.

The matter is clarified accordingly.



NOTIFICATION (CENTRAL GOVT.)

[Go to Index Page](#)

ASSIGNING JURISDICTION AND POWER TO OFFICERS OF VARIOUS DIRECTORATES

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

Notification No. 14/2017 – Central Tax

New Delhi, the 1st July, 2017

G.S.R (E).- In exercise of the powers conferred under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Board of Excise and Customs hereby appoints the officers in the Directorate General of Goods and Services Tax Intelligence, Directorate General of Goods and Services Tax and Directorate General of Audit as specified in column (2) of the Table below, as central tax officers and invests them with all the powers under the Central Goods and Services Tax Act, 2017 and the Integrated Goods and Services Tax Act, 2017 and the rules made there under, throughout the territory of India, as are exercisable by the central tax officers of the corresponding rank as specified in column (3) of the said Table, namely:-

TABLE

Sl. No.	Officers	Officers whose powers are to be exercised
(1)	(2)	(3)
1.	Principal Director General, Goods and Services Tax Intelligence or Principal Director General, Goods and Services Tax	Principal Chief Commissioner
2.	Director General, Audit	Chief Commissioner
3.	Principal Additional Director General, Goods and Services Tax Intelligence or Principal Additional Director General, Goods and Services Tax or Principal Additional Director General, Audit	Principal Commissioner
4.	Additional Director General, Goods and Services Tax Intelligence or Additional Director General, Goods and Services Tax or Additional Director General, Audit	Commissioner
5.	Additional Director, Goods and Services Tax Intelligence or Additional Director, Goods and Services Tax or Additional Director, Audit	Additional Commissioner
6.	Joint Director, Goods and Services Tax Intelligence or Joint Director, Goods and Services Tax or Joint Director, Audit	Joint Commissioner
7.	Deputy/Assistant Director, Goods and Services Tax Intelligence or Deputy/Assistant Director, Goods and Services Tax or Deputy/Assistant Director, Audit	Deputy Commissioner or Assistant Commissioner
8.	Senior Intelligence Officer, Goods and Services Tax Intelligence or Superintendent, Goods and Services Tax or Superintendent, Audit	Superintendent
9.	Intelligence Officer, Goods and Services Tax Intelligence or Inspector, Goods and Services Tax or Inspector, Audit	Inspector

2. This notification shall come into force with effect from the 1st day of July, 2017.

(Dr. Sreeparvathy S.L.)
Under Secretary to the Government of India

**NOTIFICATION (CENTRAL GOVT.)**[Go to Index Page](#)**AMENDING CGST RULES NOTIFICATION 10/2017-CT DT 28.06.2017**

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

Notification No. 15/2017 – Central Tax

New Delhi, the 1st July, 2017

G.S.R. ()E.:- In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

- (1) These rules may be called the Central Goods and Services Tax (Third Amendment) Rules, 2017.
- (2) They shall come into force with effect from the 1st day of July, 2017.

2. In the Central Goods and Services Tax Rules, 2017,

- (i) in rule 44,
 - (a) in sub-rule (2), for the words “integrated tax and central tax”, the words “central tax, State tax, Union territory tax and integrated tax” shall be substituted;
 - (b) in sub-rule (2), after the words “integrated tax”, for the brackets and figure “(2)”, the brackets and figure “(3)” shall be substituted;
 - (c) in sub-rule (6), for the words and letters “IGST and CGST”, the words “central tax, State tax, Union territory tax and integrated tax” shall be substituted;
- (ii) in rule 96,
 - (a) in sub-rule(1), in clause (b), and
 - (b) in sub-rule (3),
after the words, figures and letters “**FORM GSTR 3**”, the words and figures “or **FORM GSTR-3B**, as the case may be;” shall be inserted;
- (iii) after rule 96, the following rule shall be inserted, namely:-

“ 96A. Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking.- (1) Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in **FORM GST RFD-11** to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of —

- (a) fifteen days after the expiry of three months from the date of issue of the invoice for export, if the goods are not exported out of India; or

For details go to: <http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-15-central-tax-english.pdf>

**NOTIFICATION (CENTRAL GOVT.)**[Go to Index Page](#)**AMENDING CGST RULES NOTIFICATION 10/2017-CT DT 28.06.2017**

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

Notification No. 16/2017 – Central Tax

New Delhi, the 7th July, 2017

G.S.R... ()E.:- In exercise of the powers conferred by sub-rule (5) of rule 96A of the Central Goods and Services Tax Rules, 2017, the Central Board of Excise and Customs hereby specifies the conditions and safeguards for the registered person who intends to supply goods or services for export without payment of integrated tax, for furnishing a Letter of Undertaking in place of a Bond.

- i. The following registered person shall be eligible for submission of Letter of Undertaking in place of a bond:-
 - (a) a status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020; or
 - (b) who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year,
and he has not been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the existing laws in case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.
- ii. The Letter of Undertaking shall be furnished in duplicate for a financial year in the annexure to FORM GST RFD – 11 referred to in sub-rule (1) of rule 96A of the Central Goods and Services Tax Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor on the letter head of the registered person.

(Dr. Sreeparvathy S. L.)

Under Secretary to the Government of India



NOTIFICATION (Haryana)

[Go to Index Page](#)

HARYANA ONE TIME SETTLEMENT SCHEME FOR RECOVERY OF OUTSTANDING DUES, 2017

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

The 22nd June, 2017

No.20/ST-1/Haryana Ordinance No.1/2017. Whereas, it is expedient for the recovery of outstanding dues under the Haryana Settlement of Outstanding Dues Ordinance, 2017 now, therefore, in exercise of the powers conferred by section 3 of the Haryana Settlement of Outstanding Dues Ordinance, 2017, (Haryana Ordinance No.1 of 2017) the Governor of Haryana hereby a Scheme namely the **Haryana One Time Settlement Scheme for Recovery of Outstanding Dues, 2017**, for the period upto the 31st March, 2017, subject to the following conditions and restrictions, namely:-

- | | |
|--|--|
| Short title | 1. (1) This Scheme may be called 'The Haryana One Time Settlement Scheme for Recovery of Outstanding Dues, 2017. |
| Definitions | <p>2. (1) For the purposes of this Scheme.-</p> <p>(a) "Person" means a person or any entity who is liable to pay outstanding dues whether registered or not under the relevant Act; and</p> <p>(b) "Form" means Form appended to this Scheme.</p> <p>(2) Words and expressions not defined under this Scheme shall have the same meaning as assigned to them under the relevant Act.</p> |
| Scope of the Scheme | <p>3 (1) The Scheme shall apply to the following relevant Acts :-</p> <p>(I) The Haryana General Sales Tax Act, 1973 (Haryana Act 20 of 1973) (Repealed)</p> <p>(II) The Haryana Value Added Tax Act, 2003 (Haryana Act 6 of 2003)</p> <p>(III) The Central Sales Tax Act, 1956 (Central Act 74 of 1956)</p> <p>(IV) The Haryana Local Area Development Tax Act, 2000 (Haryana Act 13 of 2000) (Repealed)</p> <p>(V) The Haryana Tax on Entry of Goods in to Local Areas Act, 2008 (Haryana Act 8 of 2008) (under litigation)</p> <p>(VI) The Haryana Tax on Luxuries Act, 2007 (Haryana Act 23 of 2007)</p> <p>(VII) The Punjab Entertainment Duty Act, 1955 (Punjab Act 16 of 1955).</p> <p>(2) A person may opt for the Scheme in any of the relevant Act(s) for any period covered by the Scheme.</p> <p>(3) A person shall make separate application in Form OTS-1 for settlement of outstanding dues, under each Act for which he intends to opt for the Scheme.</p> |
| Settlement of outstanding dues. | <p>4. (1) A person opting for the settlement of outstanding dues under this Scheme shall have to pay, in lieu of outstanding dues, by way of settlement, an amount depending upon the category of outstanding dues as mentioned hereunder:-</p> |

Serial Number	Category of outstanding dues	Settlement Amount to be paid in lieu of outstanding dues	Extent of waiver
1	2	3	4
1	Tax	Full amount of tax levied or leviable for the period upto 31 March, 2017 under the Acts covered under the Scheme will be paid	No waiver
2	Interest	10% of the amount of interest levied or leviable for the period upto 31 March, 2017 under the Acts covered under the Scheme, will be paid	90% waiver of amount of interest.
3	Penalty	(a) 50% of the penalty amount levied for offences of suppression of tax or attempt to evade tax under the relevant Acts. (b) 25% of the penalty amount for other offences under the relevant Acts.	(a) 50% of the penalty amount. (b) 75% of the penalty amount.

(2) On payment of settlement amount as per clause (1) the interest payable for the period from the 1st April, 2017 to the date of payment of settlement amount on outstanding dues covered under the Scheme shall also stands waived.

(3) The settlement amount payable under the Scheme for a relevant Act shall be deposited under the Treasury Head of such relevant Act.

Form of the application.

5. A person opting for the Scheme shall apply to the Assessing Authority on or before 28 June, 2017 in Form OTS-1 alongwith the proof of full payment of settlement amount payable as per column 3 of table provided in clause 4 of the Scheme.

Examination of Form.

6. (1) A committee consisting of two senior most Excise and Taxation Officers (other than the assessing authority concerned) and the Assessing Authority concerned, posted in the district shall examine Form OTS-1 within forty five days of the receipt of such Form and make report to the concerned Deputy Excise and Taxation Commissioner (ST) .
- (2) The Deputy Excise and Taxation Commissioner (ST), where he has reasons to believe that the information provided by the person in Form OTS-1 is incomplete or incorrect in material particulars, he may, for reasons to be recorded in writing, serve a deficiency notice upon the person directing him to show cause as to why his application should not be rejected or as to why he should not be required to pay the amount payable that remains unpaid or short paid as per provisions of this Scheme.
- (3) The Deputy Excise and Taxation Commissioner (ST) after considering the reply to the showcause, shall pass an order of settlement or order of rejection, within a period of ninety days of the receipt of report from the committee. In case the Form is rejected, the amount paid by the person alongwith the Form shall be adjusted against his liabilities under the Act and shall not be refunded.
- (4) The Excise and Taxation Commissioner may extend time period mentioned in clauses (1) and (3) above in exceptional cases, by upto thirty days.

Abatement of pending cases.

7. The order of settlement passed by the Deputy Excise and Taxation Commissioner (ST) shall be deemed as full and final settlement of dues relating to which the Scheme is opted. All the proceedings pending before any court or authority related to the outstanding dues covered under the Scheme shall be deemed to have been abated. All the pending proceedings before any court or statutory authority shall be kept in abeyance till the order of settlement or rejection is passed:

Provided that the time period lost on account of proceedings under this Scheme shall be excluded in computing the period of limitation specified under the relevant Act, to finalize the proceedings kept in abeyance under this Scheme.

Removal of doubts.

8. (1) Nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the person other than the benefit, concession or immunity granted under this Scheme.
- (2) In case of any ambiguity or dispute arising out of this Scheme, the decision of the Excise and Taxation Commissioner, Haryana thereon shall be final.

Form- OTS-1									
APPLICATION FORM FOR OPTING THE HARYANA SETTLEMENT SCHEME FOR RECOVERY OF OUTSTANDING DUES, 2017									
(see clause 5)									
Serial Number									
1.	<div>Name of the Person</div> <div>PAN</div> <div>Mobile</div> <div>E-mail id</div> <div>SCO/Booth/Shop/Building/Flat/Floor No.</div> <div>Sector/Area</div> <div>City/Town/Village</div> <div>Post Office</div> <div>District</div> <div>Pin Code</div> <div>State</div>								
2.	Name of the relevant Act for which this application is submitted.								
3.	Registration No. under the relevant Act (if registered) (Please mention 'unregistered' if not registered)								
4.	Details of outstanding dues assessed/quantified for which scheme is opted								
	Serial Number	Financial year to which outstanding dues relate	Order No... Date vide which outstanding dues were created *	Name and designation of the authority who created outstanding dues	Tax outstanding as on date of option of the scheme	Total Interest outstanding as on date of option of the scheme upto the 31 st March, 2017. (to be self calculated for remaining period upto 31 st March, 2017 as per provisions of the relevant Act)	Total Penalty amount outstanding as on date of option of the scheme (as per totals of column 3 (a) and column 4 (a) of serial No.3 of the table in clause 4(1))	Total Penalty amount outstanding as on date of option of the scheme (as per totals of column 3 (b) and column 4 (b) of serial No.3 of the table in clause 4(1))	Total (5+6+7+8)
	1	2	3	4	5	6	7	8	9
	1								
	2								
	3								
	4								
	Total								

Note:- * Please enclose copy of order for each financial year. Also submit proof of deposit of difference amount, if the outstanding dues (tax or interest or penalty) as per order in column 3 are more than the tax, interest or penalty reflected in column 5, 6, 7 and 8.

5.	Details of outstanding dues unassessed/unquantified for which scheme is opted							
	Serial Number	Financial year to which outstanding dues relate	Amount of tax self assessed or quantified. *	Amount of interest self calculated upto the period 31 st March, 2017 as per provisions of the relevant Act. **	Total (3+4)			
	1	2	3	4	5			
	1							
	2							
	3							
	4							
	Total							
Note:- * Please attach copy of self assessment / quantification of tax. ** Please attach copy of self calculation of interest.								
6	Grand Total (Totals of form's serial No. 4 and 5)			Tax	Interest	Penalty 3(a)	Penalty 3(b)	Total (1+2+3+4)
				1	2	3	4	5
7	Settlement amount payable.	(1)	100% of tax in column 1 of serial No.6	Rs.				
		(2)	10% of interest in column 2 of serial No.6	Rs.				
		(3)	50% of penalty in column 3 of serial No.6	Rs.				
		(4)	25% of penalty in column 4 of serial No.6	Rs.				
	Total			Rs.				
8	Details of payment of settlement amount with TR/T.V. no. and Date (Please attach proof of payment)	Serial Number	Amount (in Rs.)	TR/TV No.		Date		
		Total						
Note:- All the documents attached with this application must be signed by the applicant applying for the Scheme. Seal/stamp of the person be also affixed thereon.								
9. Declaration: I _____ (give full name) son/daughter of _____ (give name of the father), resident of _____ (give complete residential address), hereby declare in the capacity of _____ (proprietor/partner/managing director/duly authorized signatory) of M/s _____ (give full name of the business entity/dealer), having its business address at _____ (give complete address of the dealer) that the contents contained hereinabove are true and correct and that nothing has been concealed therein. The Haryana Settlement Scheme for recovery of outstanding dues, 2017 has been opted after fully understanding the terms and conditions.								
<div style="text-align: right;">Signature</div> <div style="text-align: right;">(Name of the applicant)</div> <div style="text-align: right;">Also affix Seal/ stamp of the dealer</div> <div>Place:</div> <div>Date:</div>								

SANJEEV KAUSHAL
Additional Chief Secretary to Government,
Haryana, Excise and Taxation Department

**NOTIFICATION (Haryana)**[Go to Index Page](#)**FAQS RELATING TO THE HARYANA ONE TIME SETTLEMENT
SCHEME FOR RECOVERY OF OUTSTANDING ARREARS, 2017**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

From

Excise & Taxation Commissioner,
Haryana, Panchkula

To

All JETCs (Range) & (Appeal)
All (DETCs, (Sale Tax), (Inspection) 8s (HIPA)
in the State of Haryana.

Memo.No. 1341/AETC(P/R)
Panchkula, dated the 27.06.2017

Subject:- **FAQs relating to the Haryana One Time Settlement Scheme for recovery of Outstanding Arrears, 2017.**

Memo

As you are aware, a Scheme namely the Haryana One Time Settlement Scheme for recovery of Outstanding Arrears, 2017 has been notified on 22.06.2017. To bring uniformity in implementation of the Scheme, the following FAQs are issued for guidance of the all concerned:-

FAQs relating to the Haryana One Time Settlement Scheme for recovery of Outstanding Arrears, 2017

Q1.: Who can opt for this Scheme?

Ans. Any person or an entity who is liable to pay outstanding dues whether registered or not under any of the relevant Act(s) can opt for the Scheme.

Q2. How the Scheme can be opted?

Ans. Any person or entity can opt for the Scheme on or before 28.06.2017 submitting of an application to the Assessing Authority in Form OTS-1 alongwith the proof of payment of settlement amount payable as per Clause 4(1) of the Scheme.

Q3. Can the Scheme opted for the settlement of outstanding dues which have not been quantified or assessed?

Ans. Yes, a person can opt for the settlement of outstanding dues which are unassessed/unquantified but the person shall have to submit copy of self assessment/quantification of tax and interest which is leviable upto the period ending 31.03.2017. The tax and interest self quantified by the person will be entered in serial No. 5 of the OTS-1.

Q4. Under which Head the settlement amount is to be deposited?

Ans. The amount is to be deposited under the Treasury Head of the relevant Act as provided in Clause 4(3) of the Scheme for which it has been opted e.g. if a person has opted for settlement of outstanding dues relating to the HVAT Act the settlement amount is to be deposited under the Head of the HVAT Act.

Q5. Whether a person is bound to opt for settlement of outstanding dues under all the relevant Acts?

Ans. No, a person may opt for settlement of arrears under all the relevant Acts or any of the relevant Act.

Q6. Whether separate application are to be submitted for settlement of outstanding dues under different relevant Acts?

Ans. Yes, separate application needs to be submitted for each Act under which settlement Scheme is being opted.

Q7. Whether a single application can be submitted for settlement of all arrears relating to any relevant Act for which Scheme is opted?

Ans. Yes, a single application in Form OTS-1 is to be submitted to the Assessing Authority for all arrears relating to any Act for which Scheme is opted. However, the person will have option to opt for settlement of all or any of the outstanding dues.

Q8. Which penalties will be treated for suppression of tax under the relevant Acts?

Ans. The penalties for suppression of tax under the “relevant Acts” in category 3(a) of table provided in Clause 4(1) of the Scheme are as under:-

Relevant Act	Penal Sections	Extent of Waiver
HGST Act, HVAT Act and the CST Act	Section 29(7), 31(8) and 38 of the HVAT Act, 2003 and corresponding penal provisions under the HGST Act, 1973 and the CST Act, 1956.	50% of the penalty amount
The Haryana Tax on Entry of Goods into local Area, 2007 and the Haryana Local Area Development Tax Act, 2000	Section 18(4)	50% of the penalty amount
The Haryana Tax on Luxury Act, 2007	Section 16 and 20.	50% of the penalty amount
The Punjab Entertainment Duty Act, 1955	Section 15	50% of the penalty amount

The other penalties levied under the relevant Acts will be covered by category 3(b) of the table provided in clause 4(1) of the Scheme which allows waiver of 75% of penalty amount.

Q9. What does the term ‘outstanding dues’ used in the Scheme mean?

Ans. The term ‘outstanding dues’ has been defined in Section 2(ii) of the Haryana Settlement of Outstanding Dues Ordinance, 2017 as under: -

“Outstanding Dues” means any tax, interest, penalty or any other dues under any of the relevant Act, unpaid by a person, whether quantified or not, for the period upto 31st March, 2017.

Q10. What does the term ‘relevant Act’ used in the Scheme mean?

Ans. The term 'relevant Act' means the Act for which the Scheme is opted. For example if a person opts for the Scheme for settlement of outstanding dues relating to the entry tax, The Haryana Tax on Entry of Goods into Local Areas, 2008' is the 'relevant Act'.

Q11. What if the interest is not levied by the Authority for the period upto 31.03.2017?

Ans. A person has to make self quantification of interest for the remaining period upto 31.03.2017, for example, if the authority has levied interest upto 15.01.2014, the person opting for the settlement of outstanding dues shall have to quantify interest for the remaining period i.e. 16.01.2014 to 31.03.2017 as per the applicable provisions of the relevant Acts. The total of the interest levied by the authority and self quantified for remaining period by the person shall be entered in column 6 of Serial No. 4 of the OTS-1.

Q12. What if the interest calculated upto 31.03.2017 on tax dues exceeds the amount of tax under the HVAT Act?

Ans. As per Serial No. 2 of the table provided in clause 4(1) of this Scheme interest is to be levied or self quantified (by the person) upto the period 31.03.2017 as per provisions of the relevant Act. As per Section 14 of the HVAT Act, the interest levied/computed shall not exceed the amount of tax or penalty on the nonpayment or late payment of tax on which interest is charged. Therefore even if the interest computed upto 31.03.2017 is in excess of tax, the interest equal to the tax/penalty will be entered in OTS-1 for the purpose of settlement of dues.

Q13. Can penalty be self imposed or quantified by the person opting for the Scheme?

Ans. No. Only those penalty amounts which have been imposed by an authority under the relevant Act upto 31.03.2017 can be settled under the Scheme.

Q14. Whether any 'No Dues' Certificate or copy of order will be issued by the department after acceptance of the application for opting the Scheme?

Ans. Yes, the copy of order of settlement or rejection shall be issued as per clause 6 of the Scheme by the Deputy Excise and Taxation Commissioner of the district to the person opting for the Scheme.

The above may be brought to the notice of the all concerned including the Tax Bar and Business Associations.

R.B.S. Tewatia
Addl. Excise & Taxation Commissioner,
Haryana, Panchkula

**NOTIFICATION (Haryana)**[Go to Index Page](#)**DATE OF COMING INTO FORCE THE PROVISIONS OF SECTIONS 1, 2, 3, 4, 5, 10, 22, 23, 24, 25, 26, 27, 28, 29, 30, 139, 146, 164 AND 165 OF THE GST ACT**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 22nd June, 2017

No. 21/ST-2.— In exercise of the powers conferred by Sub-section (3) of Section 1 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana hereby appoints the 22nd day of June, 2017, as the date on which the provisions of sections 1, 2, 3, 4, 5, 10, 22, 23, 24, 25, 26, 27, 28, 29, 30, 139, 146, 164 and 165 of the said Act shall come into force.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**APPOINTS THE EXCISE AND TAXATION COMMISSIONER,
HARYANA TO BE THE COMMISSIONER OF STATE TAX UNDER GST
ACT**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 22nd June, 2017

No. 22/ST-2.— In exercise of the powers conferred by Section 3 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017) the Governor of Haryana hereby appoints the Excise and Taxation Commissioner, Haryana to be the Commissioner of State tax for carrying out the purposes of the said Act.

2. This notification shall come into force on the 22nd day of June, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**APPOINTS THE ADDITIONAL EXCISE & TAXATION
COMMISSIONERS & OTHERS UNDER THE GST ACT**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 22nd June, 2017

No. 23/ST-2.— In exercise of the powers conferred by section 3 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana hereby appoints the Additional Excise & Taxation Commissioner to be the Additional Commissioner of State tax, Joint Excise & Taxation Commissioner to be the Joint Commissioner of State tax, Deputy Excise & Taxation Commissioner to be the Deputy Commissioner of State tax, Excise & Taxation Officer to be the Excise & Taxation Officer of State tax and Assistant Excise & Taxation Officer to be the Assistant Excise & Taxation Officer of State tax for carrying out the purposes of the said Act.

2. This notification shall come into force on the 22nd day of June, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.



NOTIFICATION (Haryana)

[Go to Index Page](#)

APPOINTS THE TAXATION INSPECTORS OF THE GST ACT

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 22nd June, 2017

No. 24/ST-2.— In exercise of the powers conferred by Sub-section (1) of section 4 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana hereby appoints the Taxation Inspectors for the purposes of the said sub-section.

2. This notification shall come into force on the 22nd day of June, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.



NOTIFICATION (Haryana)

[Go to Index Page](#)

THE HARYANA COMPOSITION & REGISTRATION RULES UNDER HGST ACT

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 22nd June, 2017

No. 25/ST-2.— In exercise of the powers conferred by Section 164 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana hereby makes the following rules, namely:-

CHAPTER I PRELIMINARY

Short title, and
commencement.

1. (1) These rules may be called the Haryana Goods and Services Tax Rules, 2017.
- (2) They shall come into force with effect from the 22nd June, 2017.

Definitions.

2. (1) In these rules, unless the context otherwise requires,-
 - (a) “Act” means the Haryana Goods and Services Tax Act, 2017 (19 of 2017);
 - (b) “FORM” means a Form appended to these rules;
 - (c) “section” means a section of the Act;
 - (d) “Special Economic Zone” shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);
- (2) Words and expressions used in these rules but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act.

CHAPTER II COMPOSITION RULES

Intimation for
composition levy

3. (1) Any person who has been granted registration on a provisional basis under clause (b) of sub-rule (1) of rule 24 and who opts to pay tax under section 10, shall electronically file an intimation in **FORM GST CMP-01**, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, prior to the appointed day, but not later than thirty days

after the said day, or such further period as may be extended by the Commissioner in this behalf *for details go to*

https://haryanatax.gov.in/HEX/DownloadPDF?formName=/d01/PORTAL/SPLAPP/pdf/Rules/GST/1CompositionRegistrationRulesGST_25.pdf

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING COMMON PORTAL OF THE GST ACT**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 22nd June, 2017

No. 26/ST-2.— In exercise of the powers conferred by Section 146 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana hereby notifies www.gst.gov.in as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax and electronic way bill.

Explanation.— For the purposes of this notification, “www.gst.gov.in” means the website managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013 (Central Act 18 of 2013).

2. This notification shall come into force on the 22nd day of June, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**EXEMPTION FROM REGISTRATION TO THE PERSONS ON
REVERSE CHARGE BASIS UNDER GST ACT**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 22nd June, 2017

No. 27/ST-2 - In exercise of the powers conferred by Sub-section (2) of Section 23 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana hereby specifies the persons who are engaged only in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under Sub-section (3) of Section 9 of the said Act as the category of persons exempted from obtaining registration under the aforesaid Act.

2. This notification shall come into force on the 22nd day of June, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING OMISSION OF SECTION 165 FROM
NOTIFICATION NO. 21/ST-2, DATED 22.06.2017.**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No. 28/ST-2.— In exercise of the power conferred by Sub-section (3) of Section 1 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana hereby makes the following amendment in the Haryana Government, Excise and Taxation Department, Notification No. 21/ST-2, dated the 22nd June, 2017, namely:-

Amendment

In the Haryana, Excise and Taxation Department, Notification No. 21/ST-2, dated the 22nd June, 2017, the figure “165” shall be omitted.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING BRINGING INTO FORCE CERTAIN
SECTIONS OF THE HGST ACT, 2017 W.E.F 01.07.2017.**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No. 29/ST-2 -- In exercise of the powers conferred by Sub-section (3) of Section 1 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, hereby appoints the 1st day of July, 2017, as the date on which the provisions of sections 6 to 9, 11 to 21, 31 to 41, 42 except the proviso to sub-section (9) of section 42, 43 except the proviso to sub-section (9) of section 43, 44 to 50, 53 to 138, 140 to 145, 147 to 163, 165 to 174 of the said Act, shall come into force.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION UNDER SECTION 4(2) READ WITH CLAUSE (91) OF SECTION 2 OF THE HGST ACT OF 2017 TO EXERCISE THE POWERS AND PERFORM THE DUTIES OF PROPER OFFICER IN THE AREAS.

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No. 30/ST-2 -- In exercise of the powers conferred by sub-section (2) of section 4, read with clause (91) of section 2 of the Haryana Goods and Services Tax Act, 2017 (Act No.19 of 2017), the Governor of Haryana hereby appoints the officers mentioned in column (2) of the table below, to exercise the powers and perform the duties of proper officer (within the meaning of the above said clause of the Act) in the areas mentioned in column (3) there against:-

TABLE

Sr. No.	Designation of the Officer	Area of Jurisdiction
1	2	3
1	Additional Commissioner of State Tax	Throughout the State of Haryana
2	Joint Commissioner of State Tax posted at the Head Office	Throughout the State of Haryana
3	Joint Commissioner of State Tax posted in the Range	Districts falling in the Range
4	Deputy Commissioner of State Tax, Excise and Taxation Officer of State Tax and Assistant Excise and Taxation Officer of State Tax posted at the Head Office	Throughout the State of Haryana
5	Deputy Commissioner of State Tax, Excise and Taxation Officer of State Tax and Assistant Excise and Taxation Officer of State Tax posted in the Range office	Districts falling in the Range
6	Deputy Commissioner of State Tax including those posted on Inspection or Excise side.	District of his posting

7	Excise and Taxation Officer of State Tax and Assistant Excise and Taxation Officer of State Tax	District of his posting
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This notification shall come in to force with effect from 22nd June, 2017 for the purposes of Registration and Composition under the Act and with effect from 1st July, 2017 for all other purposes of the Act.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION UNDER SUB-SECTION (2) OF SECTION 4, READ WITH CLAUSE (4) OF SECTION 2, OF THE HGST ACT OF 2017 TO EXERCISE THE POWERS AND PERFORM THE DUTIES OF ADJUDICATING AUTHORITY.

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No.31/ST-2 -- In exercise of the powers conferred by sub-section (2) of section 4, read with clause (4) of section 2, of the Haryana Goods and Services Tax Act, 2017 (Act No.19 of 2017), the Governor of Haryana hereby appoints the officers mentioned in column (2) of the table below, to exercise the powers and perform the duties of adjudicating authority (within the meaning of the above said clause of the Act) in the areas mentioned in column (3) there against, namely:-

Sr.No.	Designation of the Officer	Area of Jurisdiction
1	2	3
1	Additional Commissioner of State Tax	Throughout the State of Haryana
2	Joint Commissioner of State Tax posted at the Head Office	Throughout the State of Haryana
3	Joint Commissioner of State Tax posted in the Range	Districts falling in the Range
4	Deputy Commissioner of State Tax, Excise and Taxation Officer of State Tax and Assistant Excise and Taxation Officer of State Tax posted at the Head Office	Throughout the State of Haryana
5	Deputy Commissioner of State Tax, Excise and Taxation Officer of State Tax and Assistant Excise and Taxation Officer of State Tax posted in the Range office	Districts falling in the Range
6	Deputy Commissioner of State Tax including those posted on Inspection or	District of his posting

	Excise side.	
7	Excise and Taxation Officer of State Tax and Assistant Excise and Taxation Officer of State Tax	District of his posting

This notification shall come in to force with effect from 22nd June, 2017 for the purposes of Registration and Composition under the Act and with effect from 1st July, 2017 for all other purposes of the Act.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION UNDER SECTION 4(2) OF THE HGST ACT OF 2017 FOR THE PURPOSE OF TAX ADMINISTRATION THE STATE SHALL BE DIVIDED INTO FIVE RANGES COMPRISING THE DISTRICTS.

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No. 32/ST-2 -- In exercise of the powers conferred by sub-Section (2) of Section 4, of the Haryana Goods and Services Tax Act, 2017 (Act No.19 of 2017) and all other powers enabling him in this behalf, the Governor of Haryana hereby orders that the Commissioner shall superintend the administration and collection of tax leviable under the Act and that for the purpose of tax administration the State shall be divided into the following five ranges comprising the districts as mentioned against each, namely:

TABLE

Sr. No.	Range	Name of the districts comprising the Range
1	2	3
1	Ambala	Panchkula, Ambala Yamunanagar, Kaithal, Kurukshetra and Karnal
2	Faridabad	Faridabad (East), Faridabad (West), Faridabad (North), Faridabad (South) and Palwal
3	Gurugram	Gurugram (East), Gurugram (West), Gurugram (North), Gurugram (South) and Mewat
4	Hisar	Hisar, Jind, Fatehabad, Sirsa and Bhiwani
5	Rohtak	Rohtak, Panipat, Sonipat, Rewari, Narnaul and Jhajjar

Each range shall be headed by a Joint Commissioner of State Tax, each district by a Deputy Commissioner of the State Tax and each circle by an Excise and Taxation Officer or an Assistant Excise and Taxation Officer of State Tax, as the case may be.

This notification shall come into force with effect from 1st July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**REGARDING AMENDMENT IN RULES UNDER SECTION 164 OF THE
HGST ACT, 2017.**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No. 33/ST-2 -- In exercise of the powers conferred by section 164 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana hereby makes the following rules further to amend the Haryana Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Haryana Goods and Services Tax (Amendment) Rules, 2017.
(2) They shall be deemed to have come into force with effect from the 22nd June, 2017.
2. In the Haryana Goods and Services Tax Rules, 2017, (herein after called the said rules), in rule 10, in sub-rule (4), for the words “digitally signed”, the words “duly signed or verified through electronic verification code” shall be substituted.
3. In the said rules, in rule 13, in sub-rule (4), for the words “signed”, the words “duly signed or verified through electronic verification code” shall be substituted.
4. In the said rules, in rule 19, in sub-rule (1), in the second proviso, for the words “the said rule”, the words, brackets and figures “sub-rule (2) of rule 8” shall be substituted.
5. In the said rules, in rule 21, for clause (b), the following clauses shall be substituted, namely:-
 - “(b) issues invoice or bill without supply of goods or services in violation of the provisions of the Act, or the rules made thereunder; or
 - (c) violates the provisions of section 171 of the Act or the rules made thereunder.”.
6. In the said rules, in rule 22, in sub-rule (3), the words, brackets and figure “sub-rule (1) of” shall be omitted.
7. In the said rules, in rule 24,-
 - (i) in sub-rule (1), the second proviso shall be omitted;
 - (ii) after sub-rule (3), the following sub-rule shall be inserted, namely:-

“(3A) Where a certificate of registration has not been made available to the applicant on the common portal within a period of fifteen days from the date of

the furnishing of information and particulars referred to in clause (c) of sub-rule (2) and no notice has been issued under sub-rule (3) within the said period, the registration shall be deemed to have been granted and the said certificate of registration, duly signed or verified through electronic verification code, shall be made available to the registered person on the common portal.”.

8. In the said rules, in rule 26, in sub-rule (3), for the words “specified under the provisions of the Information Technology Act, 2000 (21 of 2000)”, the words “or through e-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf.” shall be substituted.

9. In the said rules, in Form GST CMP-04, in the table, for serial number 5 and entries thereagainst, the following serial number and entries thereagainst shall be substituted, namely:-

“5. Category of Registered Person

- (i) Manufacturers, other than manufacturers of such goods as may be notified by the Government
- (ii) Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II
- (iii) Any other supplier eligible for composition levy.”.

10. In the said rules, in Form GST CMP-07, for the brackets, words and figures “[See rule 6(6)]”, the brackets, words and figures “[See rule 6(5)]” shall be substituted.

11. In the said rules, in Form GST REG-12, for the words and figures “within 30 days”, the words and figures “within 90 days” shall be substituted.

12. In the said rules, in Form REG-25,-

- (i) for the words and letters, “Provisional ID”, the letters “GSTIN” shall be substituted;
- (ii) the words “Place” and “<State>” shall be omitted.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING COMPOSITION CONDITIONS UNDER
SECTION 10(1) OF THE HGST ACT, 2017.**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No. 34/ST-2.— In exercise of the powers conferred by the proviso to Sub-section (1) of Section 10 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017) (hereinafter referred to as the said Act), the Governor of Haryana, on the recommendations of the Council, hereby prescribes that an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed seventy five lakh rupees, may opt to pay, in lieu of the State tax payable by him, an amount calculated at the rate of,—

- (i) one percent of the turnover in State in case of a manufacturer,
- (ii) two and a half percent of the turnover in State in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II of the said Act, and
- (iii) half percent of the turnover in State in case of other suppliers:

Provided that the aggregate turnover in the preceding financial year shall be fifty lakh rupees in the case of an eligible registered person, registered under section 25 of the said Act, in any following States, namely: -

- (i) Arunachal Pradesh,
- (ii) Assam,
- (iii) Manipur,
- (iv) Meghalaya,
- (v) Mizoram,
- (vi) Nagaland,
- (vii) Sikkim,
- (viii) Tripura,
- (ix) Himachal Pradesh:

Provided further that the registered person shall not be eligible to opt for composition levy under sub-section (1) of section 10 of the said Act if such person is a manufacturer of the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table:-

S. No.	Tariff item, sub-heading, heading or Chapter	Description
(1)	(2)	(3)
1.	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2.	2106 90 20	Pan masala
3.	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

Explanation.—

- (1) In this Table, “tariff item”, “sub-heading”, “heading” and “chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
 - (2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.
2. This notification shall come into force with effect from the 1st day of July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION UNDER SUB-SECTION (1) OF SECTION 9 THE HGST ACT NOTIFYING THE RATE OF THE STATE TAX ON SUPPLY OF GOODS

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No.35/ST-2.— In exercise of the powers conferred by sub-section (1) of section 9 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on the recommendations of the Council, hereby notifies the rate of the state tax of- (i) 2.5 percent in respect of goods specified in Schedule I; (ii) 6 percent in respect of goods specified in Schedule II; (iii) 9 percent in respect of goods specified in Schedule III; (iv) 14 percent in respect of goods specified in Schedule IV; (v) 1.5 percent in respect of goods specified in Schedule V; and (vi) 0.125 percent in respect of goods specified in Schedule VI appended to this notification (hereinafter referred to as the said Schedules), that shall be levied on intra-State supplies of goods, the description of which is specified in the corresponding entry in column (3) of the said Schedules, falling under the tariff item, Sub-heading, Heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedules

No.	Chapter / Heading / Sub- heading / Tariff item	Description of Goods
(1)	(2)	(3)
1.	0303	Fish, frozen, excluding fish fillets and other fish meat of heading 0304
2.	0304	Fish fillets and other fish meat (whether or not minced), frozen
3.	0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption

For details go to

<https://haryanatax.gov.in/HEX/DownloadPDF?formName=/d01/PORTAL/SPLAPP/pdf/Notifications/GST/2017/8No35.pdf>



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION UNDER SUB-SECTION (1) OF SECTION 11 THE HGST ACT NOTIFYING EXEMPTION OF INTRA-STATE SUPPLIES OF GOODS.

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No: 36/ST-2 -- In exercise of the powers conferred by sub-section (1) of section 11 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of goods, the description of which is specified in column (3) of the Schedule appended to this notification, falling under the Tariff item, Sub-Heading, Heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedule, from the whole of the State tax leviable thereon under section 9 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017).

Schedule

No.	Chapter / Heading / Sub- heading / Tariff item	Description of Goods
(1)	(2)	(3)
1.	0101	Live asses, mules and hinnies
2.	0102	Live bovine animals
3.	0103	Live swine
4.	0104	Live sheep and goats
5.	0105	Live poultry, that is to say, fowls of the species <i>Gallus domesticus</i> , ducks, geese, turkeys and guinea fowls.
6	0106	Other live animal such as Mammals, Birds, Insects

For details go to

<https://haryanatax.gov.in/HEX/DownloadPDF?formName=/d01/PORTAL/SPLAPP/pdf/Notifications/GST/2017/9No36.pdf>.



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION 2.5% CONCESSIONAL HGST RATE FOR SUPPLIES TO EXPLORATION AND PRODUCTION NOTIFIED UNDER SECTION 11 (1) OF THE HGST ACT, 2017.

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No: 37/ST-2 -- In exercise of the powers conferred by sub-section (1) of section 11 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of goods, the description of which is specified in column (3) of the Table below read with relevant List appended hereto and falling under the Tariff item, Sub-heading, Heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, from so much of the State tax leviable thereon under section 9 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017) as is in excess of the amount calculated at the rate specified in the corresponding entry in column (4) of the said Table and subject to the relevant conditions annexed to this notification, as specified in the corresponding entry in column (5) of the Table, namely:-

S.No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods	Rate	Condi tion No.
(1)	(2)	(3)	(4)	(5)
1.	Any Chapter	Goods specified in the List annexed to this Table required in connection with: (1) Petroleum operations undertaken under petroleum exploration licenses or mining leases, granted by the Government of India or	2.5%	1

		<p>any State Government to the Oil and Natural Gas Corporation or Oil India Limited on nomination basis, or</p> <p>(2) Petroleum operations undertaken under specified contracts, or</p> <p>(3) Petroleum operations undertaken under specified contracts under the New Exploration Licensing Policy, or</p> <p>(4) Petroleum operations undertaken under specified contracts under the Marginal Field Policy (MFP), or</p>		
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For details go to

<https://haryanatax.gov.in/HEX/DownloadPDF?formName=/d01/PORTAL/SPLAPP/pdf/Notifications/GST/2017/10No37.pdf>



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION REGARDING REVERSE CHARGE ON CERTAIN SPECIFIED SUPPLIES OF GOODS UNDER SECTION 9 (3) OF THE HGST ACT, 2017

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No.38/ST-2 -- In exercise of the powers conferred by sub-section (3) of section 9 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on the recommendations of the Council, hereby specifies the supply of goods, the description of which is specified in column (3) of the Table below and falling under the Tariff item, Sub-heading, Heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, made by the person as specified in the corresponding entry in column (4), in respect of which the State tax shall be paid on reverse charge basis by the recipient of the intra-state supply of such goods as specified in the corresponding entry in column (5) and all the provisions of the said Act shall apply to such recipient, namely:-

TABLE

S.No	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
(1)	(2)	(3)	(4)	(5)
1.	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	1404 90 10	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	2401	Tobacco leaves	Agriculturist	Any registered person
4.	5004 to 5006	Silk yarn	Any person who manufactures silk yarn from raw silk or	Any registered person

			silk worm cocoons for supply of silk yarn	
5.	-	Supply of lottery.	State Government, Union Territory or any local authority	Lottery distributor or selling agent. <i>Explanation.-</i> For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under the provisions of sub section (1) of section 11 of the Lotteries (Regulations) Act, 1998 (17 of 1998).

Explanation. –

- (1) In this Table, “tariff item”, “sub-heading”, “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading or chapter, as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
- (2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

2. This notification shall come into force with effect from the 1st day of July, 2017. SANJEEV KAUSHAL, Additional Chief Secretary to Government, Haryana, Excise and Taxation Department.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government,
Haryana,
Excise and Taxation Department.



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION REGARDING SUPPLIES OF GOODS IN RESPECT OF WHICH NO REFUND OF UNUTILISED INPUT TAX CREDIT SHALL BE ALLOWED UNDER SECTION 54 (3).

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No: 39/ST-2 -- In exercise of the powers conferred by clause (ii) of the proviso to sub-section (3) of section 54 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on the recommendations of the Council, hereby notifies the goods, the description of which is specified in column (3) of the Table below and falling under the Tariff item, Heading, Sub-heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods (other than nil rated or fully exempt supplies).

TABLE

S.No.	Tariff item, heading, sub-heading or Chapter	Description of Goods
(1)	(2)	(3)
1.	5007	Woven fabrics of silk or of silk waste
2.	5111 to 5113	Woven fabrics of wool or of animal hair
3.	5208 to 5212	Woven fabrics of cotton
4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5.	5407, 5408	Woven fabrics of manmade textile materials
6.	5512 to 5516	Woven fabrics of manmade staple fibres
7.	60	Knitted or crocheted fabrics [All goods]
8.	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
9.	8602	Other rail locomotives; locomotive tenders; such as

		Diesel-electric locomotives, Steam locomotives and tenders thereof
10.	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
11.	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles)
12.	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)
13.	8606	Railway or tramway goods vans and wagons, not self-propelled
14.	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof
15.	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing

Explanation. –

- (1) In this Table, “Tariff item”, “Sub-heading”, “Heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading or chapter, as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
- (2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

2. This notification shall come into force with effect from the 1st day of July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING REFUND OF 50% OF HGST ON
SUPPLIES TO CSD UNDER SECTION 55**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:40/ST-2 - In exercise of the powers conferred by section 55 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on the recommendations of the Council, hereby specifies the Canteen Stores Department (hereinafter referred to as the CSD), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty percent of the applicable State tax paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.

2. This notification shall come into force with effect from the 1st day of July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION REGARDING HGST EXEMPTION FROM REVERSE CHARGE UPTO RS.5000 PER DAY UNDER SECTION 11 (1) OF THE HGST ACT, 2017

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:41/ST-2-In exercise of the powers conferred by sub-section (1) of section 11 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts, supplies of goods, the description of which is specified in column (3) of the Table below, falling under the Tariff item, Sub-heading, Heading or Chapter, as the case may be, as specified in the corresponding entry in column (2), from the whole of the State tax leviable thereon under section 9 of the said Act, namely:-

TABLE

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods
(1)	(2)	(3)
1.	Any chapter	The supply of goods by the CSD to the Unit Run Canteens
2.	Any chapter	The supply of goods by the CSD to the authorized customers
3.	Any chapter	The supply of goods by the Unit Run Canteens to the authorized customers

Explanation. –

- (1) In this notification, “Tariff item”, “Sub-heading” “Heading” and “Chapter” shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
- (2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes

and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

2. This notification shall come into force with effect from the 1st day of July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING HGST EXEMPTION FROM REVERSE
CHARGE UPTO RS.5000 PER DAY UNDER SECTION 11 (1) OF THE
HGST ACT, 2017**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:42/ST-2--In exercise of the powers conferred by sub-section (1) of section 11 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the State tax leviable thereon under sub-section (4) of section 9 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017): Provided that the said exemption shall not be applicable where the aggregate value of such supplies of goods or service or both received by a registered person from any or all the suppliers, who is or are not registered, exceeds five thousand rupees in a day.

2. This notification shall come into force with effect from the 1st day of July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING EXEMPTING SUPPLIES TO A TDS
DEDUCTOR BY A SUPPLIER, WHO IS NOT REGISTERED, UNDER
SECTION 11 (1) OF THE HGST ACT, 2017**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:43/ST-2- In exercise of the powers conferred by sub-section (1) of section 11 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of goods or services or both received by a deductor under section 51 of the said Act, from any supplier, who is not registered, from the whole of the State tax leviable thereon under sub-section (4) of section 9 of the said Act, subject to the condition that the deductor is not liable to be registered otherwise than under sub-clause (vi) of section 24 of the said Act.

2. This notification shall come into force with effect from the 1st day of July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING HGST EXEMPTION FOR DEALERS
OPERATING UNDER MARGIN SCHEME/SECOND HAND GOODS
NOTIFIED UNDER SECTION 11 (1) OF THE HGST ACT, 2017.**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:44/ST-2--In exercise of the powers conferred by sub-section (1) of section 11 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on being satisfied that it is necessary in the public interest to do so, on the recommendations of the Council, hereby exempts intra-State supplies of second hand goods received by a registered person, dealing in buying and selling of second hand goods and who pays the State tax on the value of outward supply of such second hand goods as determined under sub-rule (5) of rule 32 of the Haryana Goods and Services Tax Act, 2017, from any supplier, who is not registered, from the whole of the State tax leviable thereon under sub-section (4) of section 9 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017).

2. This notification shall come into force with effect from the 1st day of July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION REGARDING RATE OF INTEREST UNDER THE HGST ACT, 2017.

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:45/ST-2-In exercise of the powers conferred by sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on the recommendations of the Council, hereby fixes the rate of interest per annum for the purposes of the sections as specified in column (2) of the Table below as mentioned in the corresponding entry in column (3) of the said Table.

Table

Serial Number	Section	Rate of interest (in percent)
(1)	(2)	(3)
1.	Sub-section (1) of section 50	18
2.	sub-section (3) of section 50	24
3.	sub-section (12) of section 54	6
4.	section 56	6
5.	proviso to section 56	9

2. This notification shall come into force with effect from the 1st day of July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION REGARDING THE RATES FOR SUPPLY OF SERVICES UNDER THE HGST ACT, 2017.

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:46/ST-2- In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the State tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

Table

Sr. No.	Chapter, Section or Heading	Description of Service	Rate (percent)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	All Services		
2	Section 5	Construction Services		
3	Heading 9954 (Construction services)	(i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the	9	-

		competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)		
		(ii) composite supply of works contract as defined in clause 119 of section 2 of Haryana Goods and Services Tax Act, 2017.	9	-
		(iii) construction services other than (i) and (ii) above.	9	-

For details go to

<https://haryanatax.gov.in/HEX/DownloadPDF?formName=%20/d01/PORTAL/SPLAPP/pdf/Notifications/GST/2017/19No46.pdf>



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION REGARDING THE EXEMPTIONS ON SUPPLY OF SERVICES UNDER THE HGST ACT, 2017

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:47/ST-2-In exercise of the powers conferred by sub-section (1) of section 11 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the State tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

Table

Sr. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.	Nil	Nil
2	Chapter 99	Services by way of transfer of a going concern, as a whole or an independent part thereof.	Nil	Nil
3	Chapter 99	Pure services	Nil	Nil

		(excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.		
4	Chapter 99	Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any	Nil	Nil

For details go to

<https://haryanatax.gov.in/HEX/DownloadPDF?formName=/d01/PORTAL/SPLAPP/pdf/Notifications/GST/2017/20No47.pdf>



NOTIFICATION (Haryana)

[Go to Index Page](#)

NOTIFICATION REGARDING THE CATEGORIES OF SERVICES ON WHICH TAX WILL BE PAYABLE UNDER REVERSE CHARGE MECHANISM UNDER THE HGST ACT, 2017.

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:48/ST-2 - In exercise of the powers conferred by sub-section (3) of section 9 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana on the recommendations of the Council hereby notifies that on categories of supply of services mentioned in column (2) of the Table below, supplied by a person as specified in column (3) of the said Table, the whole of State tax leviable under section 9 of the said Haryana Goods and Services Tax Act, 2017, shall be paid on reverse charge basis by the recipient of the such services as specified in column (4) of the said Table, namely:-

Table

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948);or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered

	<p>the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person.</p>		<p>under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p>
2	<p>Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.</p>	<p>An individual advocate including a senior advocate or firm of advocates.</p>	<p>Any business entity located in the taxable territory.</p>
3	<p>Services supplied by an arbitral tribunal to a business entity.</p>	<p>An arbitral tribunal.</p>	<p>Any business entity located in the taxable territory.</p>
4	<p>Services provided by way of sponsorship to any body corporate or partnership firm.</p>	<p>Any person</p>	<p>Any body corporate or partnership firm located in the taxable territory.</p>
5	<p>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, -</p> <p>(1) renting of immovable property, and</p> <p>(2) services specified below-</p> <p>(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or</p>	<p>Central Government, State Government, Union territory or local authority</p>	<p>Any business entity located in the taxable territory.</p>

	Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or Central Government, State Government, Union territory or local authority Any business entity located in the taxable territory. outside the precincts of a port or an airport; (iii) transport of goods or passengers.		
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.

Explanation.- For purpose of this notification,- (a)The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification. (b) “Body Corporate” has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013 (18 of 2013). (c) the business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING THE SUPPLIES WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICE UNDER THE HGST ACT, 2017.**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No. 49/ST-2.-In exercise of the powers conferred by sub-section (2) of section 7 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on the recommendations of the Council hereby notifies that the following activities or transactions undertaken by the Central Government or State Government or any local authority in which they are engaged as public authority, shall be treated neither as a supply of goods nor a supply of service, namely:-

“Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution.”

2. This notification shall come into force with effect from the 1st day of July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING THE SUPPLIES NOT ELIGIBLE FOR
REFUND OF UNUTILIZED ITC UNDER THE HGST ACT. 2017**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:50/ST-2- In exercise of the powers conferred by sub-section (3) of section 54 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on the recommendations of the Council hereby notifies that no refund of unutilised input tax credit shall be allowed in case of supply of services specified in sub-item (b) of item 5 of Schedule II of the said Act. 2. This notification shall come into force with effect from the 1st day of July, 2017.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING SPECIALISED AGENCIES ENTITLED TO CLAIM A REFUND OF TAXES PAID ON THE NOTIFIED SUPPLIES OF GOODS OR SERVICES OR BOTH RECEIVED BY THEM UNDER HGST ACT, 2017.**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No.51/ST-2- In exercise of the powers conferred by section 55 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana hereby specifies, -

- (i) United Nations or a specified international organisation; and
- (ii) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein,

for the purposes of the said section subject to the following conditions:-

- (a) United Nations or a specified international organisation shall be entitled to claim refund of State tax paid on the supplies of goods or services or both received by them subject to a certificate from United Nations or that specified international organisation that the goods and services have been used or are intended to be used for official use of the United Nations or the specified international organisation.
- (b) Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein shall be entitled to claim refund of State tax paid on the supplies of goods or services or both received by them subject to, -
 - (i) that the foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, are entitled to refund of state tax, as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity;
 - (ii) that in case of supply of services, the head of the foreign diplomatic mission or consular post, or any person of such mission or post authorised by him, shall furnish an undertaking in original, signed by him or the authorised person, stating that the supply of services received are for official purpose of the said foreign diplomatic

- mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his/her family;
- (iii) that in case of supply of goods, concerned diplomatic mission or consulate or an officer duly authorized by him shall produce a certificate that,—
- (I) the goods have been put to use, or are in the use, as the case may be, of the mission or consulate;
 - (II) (II) the goods shall not be supplied further or otherwise disposed of before the expiry of three years from the date of receipt of the goods; and
 - (III) in the event of non-compliance of clause (I), the diplomatic or consular mission shall pay back the refund amount paid to them;
- (iv) in case the Protocol Division of the Ministry of External Affairs, after having issued a certificate to any foreign diplomatic mission or consular post in India, decides to withdraw the same subsequently, it shall communicate the withdrawal of such certificate to the foreign diplomatic mission or consular post;
- (v) the refund of the whole of the State tax granted to the foreign diplomatic mission or consular post in India for official purpose or for the personal use or use of their family members shall not be available from the date of withdrawal of such certificate.

Explanation. - For the purposes of this notification, unless the context otherwise requires, “specified international organisation” means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947 (46 of 1947), to which the provisions of the Schedule to the said Act apply.

2. This notification shall come into force with effect from the 1st day of July, 2017

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**NOTIFICATION REGARDING THE CATEGORIES OF SERVICES THE
TAX ON INTRA-STATE SUPPLIES OF WHICH SHALL BE PAID BY
THE ELECTRONIC COMMERCE OPERATOR**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No:52/ST-2-In exercise of the powers conferred by sub-section (5) of section 9 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on the recommendations of the Council, hereby notifies that in case of the following categories of services, the tax on intra-State supplies shall be paid by the electronic commerce operator –

- (i) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;
- (ii) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Haryana Goods and Services Tax Act, 2017 (19 of 2017).

Explanation.- For the purposes of this notification,-

- (a) “radio taxi” means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS);
- (b) “maxicab”, “motorcab” and “motor cycle” shall have the same meanings as assigned to them respectively in clauses (22), (25) and (26) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

2. This notification shall come into force with effect from the 1st day of July, 2017

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.

**NOTIFICATION (Haryana)**[Go to Index Page](#)**HGST RULES (SECOND AMENDMENT) FRAMED UNDER SECTION
164 UNDER THE HGST ACT, 2017**

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 30th June, 2017

No. 53/ST-2.— In exercise of the powers conferred by section 164 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, hereby makes the following rules further to amend the Haryana Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Haryana Goods and Services Tax (Second Amendment) Rules, 2017.
- (2) They shall come into force on the 1st day of July, 2017.
 - (i) In the Haryana Goods and Services Tax Rules, 2017, after rule 26, the following rules shall be inserted, namely:-

“Chapter IV**Determination of Value of Supply**

27. Value of supply of goods or services where the consideration is not wholly in money.—Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall –

- (a) be the open market value of such supply;
- (b) if the open market value is not available under clause (a), be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply;
- (c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;
- (d) if the value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of rule 30 or rule 31 in that order.

For details go to

https://haryanatax.gov.in/HEX/DownloadPDF?formName=/d01/PORTAL/SPL APP/pdf/Rules/GST/No53ST2NotificationHGST_Act2017.pdf



NOTIFICATION (Haryana)

[Go to Index Page](#)

REDUCING RATE & OTHERS AMENDMENT IN NOTIFICATION NO.35/ST-2, DATED 30.06.2017(182A,182B,182C & 182D)

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 5th July, 2017

No.55/ST-2.— In exercise of the power conferred by Sub-section (1) of section 9 of the Haryana Goods and Services Tax Act, 2017 (19 of 2017), the Governor of Haryana, on the recommendations of the Goods and Services Tax Council hereby makes the following amendments in the Haryana Government, Excise and Taxation Department, Notification No.35/ST-2, dated the 30th June, 2017, with effect from 1st July, 2017, namely:-

Amendment

In the Haryana Government, Excise and Taxation Department, Notification No.35/ ST-2, dated the 30th June, 2017,-

I. In Schedule I – 2.5%, -

- (i) against serial number 180, under column 2, for the figure 30, the figure and words “30 or any chapter” shall be substituted;
- (ii) after serial number 182, under columns 1, 2 and 3, the following serial numbers and entries thereagainst shall be inserted, namely:-

S.No.	Chapter/Heading/Sub-Heading/Tariff item	Description of Goods
(1)	(2)	(3)
“182A	3102	Mineral or chemical fertilisers, nitrogenous, other than those which are clearly not to be used as fertilizers
182B	3103	Mineral or chemical fertilizers, phosphatic, other than those which are clearly not to be used as fertilizers

182C	3104	Mineral or chemical fertilizers, potassic, other than those which are clearly not to be used as fertilizers
182D	3105	Mineral or chemical fertilizers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilizers; goods of this Chapter in tablets or similar forms or in packages of a gross weight not exceeding 10kg; other than those which are clearly not to be used as fertilizers”.

- II. In Schedule II-6%, serial numbers 66, 67, 68 and 69 and entries thereagainst shall be omitted.
- III. In Schedule III-9%,-
- (i) against serial number 42, under column (3), the words “other than those” shall be omitted;
 - (ii) against serial number 411, under column (3), the words and sign “goggles and the like, corrective, protective or other” shall be omitted.

SANJEEV KAUSHAL,
Additional Chief Secretary to Government, Haryana,
Excise and Taxation Department.