

**GOVERNMENT OF TAMIL NADU  
COMMERCIAL TAXES DEPARTMENT  
OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES  
EZHILAGAM, CHENNAI- 600 005**

**PRESENT: THIRU DHEERAJ KUMAR I.A.S,  
PRINCIPAL SECRETARY/ COMMISSIONER OF STATE TAX**

**Circular No. 17/2023  
(PP6/GST/82/2023)**

**Dated 21.08.2023**

Sub: Clarifications regarding applicability of GST on certain services –Regarding.

Ref: Circular No. 201/13/2023-GST, dated 01.08.2023, issued by Government of India, Ministry of Finance, Department of Revenue, Tax Research Unit.

\*\*\*\*\*

In the reference cited, the Central Board of Indirect Taxes & Customs, Department of Revenue, Tax Research Unit, Government of India, New Delhi, has issued Circular No 201/13/2023-GST, dated 01.08.2023 on the recommendations of the GST Council. Hence, following *pari-materia* circular is issued.

2) Representations have been received by the GST Council, seeking clarifications on the following issues.

1. Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism;

2. Whether supply of food or beverages in cinema hall is taxable as restaurant service.

The above issues have been examined by GST Council in the 50<sup>th</sup> meeting held on 11<sup>th</sup> July, 2023. The issue-wise clarifications as recommended by the Council are given below:

**Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism:**

3. Reference has been received by the GST Council, requesting for clarification whether services supplied by a director of a company or body

corporate in personal or private capacity, such as renting of immovable property to the company, are taxable under Reverse Charge Mechanism (RCM) or not.

3.1 Entry No. 6 of G.O. (Ms) No. 74, Commercial Taxes and Registration Department, dated 29.06.2017 in Notification No.II(2)/CTR/532(d-16)/2017, dated 29.06.2017 published in the Tamil Nadu Government Extraordinary Gazette [Issue No. 202], provides that tax on services supplied by director of a company or a body corporate to the said company or the body corporate shall be paid by the company or the body corporate under Reverse Charge Mechanism.

3.2 It is hereby clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under Sl. No. 6 of G.O. (Ms) No. 74, Commercial Taxes and Registration Department, dated 29.06.2017 in Notification No.II(2)/CTR/532(d-16)/2017, dated 29.06.2017 published in the Tamil Nadu Government Extraordinary Gazette [Issue No. 202].

#### **Whether supply of food or beverages in cinema hall is taxable as restaurant service**

4. References have been received by the GST Council, requesting for clarification whether supply of food and beverages at cinema halls is taxable as restaurant service which attract GST at the rate of 5% or not.

4.1 As per Explanation at Para 4 (xxxii) to G.O. (Ms) No. 72, Commercial Taxes and Registration Department, dated 29.06.2017 in Notification No.II(2)/CTR/532(d-14)/2017, dated 29.06.2017 published in Tamil Nadu Government Extraordinary Gazette in Issue No. 202 and amended in G.O. (Ms) No.152, Commercial Taxes and Registration (B1) Department, dated 30.09.2019 in Notification No.II(2)/CTR/773(a-8)/2019, dated 30.09.2019 published in Tamil Nadu Government Extraordinary Gazette in Issue No. 372.

*"Restaurant Service' means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied."*

4.2 Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.

4.3 The cinema operator may run these refreshment or eating stalls/ kiosks/ counters or restaurant themselves or they may give it on contract to a third party. The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

4.4 It is hereby clarified that supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

- a) the food or beverages are supplied by way of or as part of a service, and
- b) supplied independent of the cinema exhibition service.

4.5 It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

Sd/- Dheeraj Kumar  
Principal Secretary/  
Commissioner of State Tax

To

1. All the Joint Commissioners (Territorial) and (LTU)
2. All the Head of Assessment Circles in the State

Copy to

1. All the Additional Commissioners, including Service Tax cell in the Office of the PS/CCT, Chennai-5
2. All the Joint Commissioners (Intelligence)
3. Director, Commercial Taxes Staff Training Institute, Chennai -35.
4. Appellate Joint Commissioner (GST) Chennai.
5. All the Deputy Commissioners (Territorial and Intelligence)
6. All the Appellate Deputy Commissioners (GST) in the State.
7. The Joint Commissioner (CS), Chennai 35, to upload the same in the internet website.
8. Stock file / Spare.

/forwarded by order/

*M. S. S.*  
21/08/23  
Deputy Commissioner (P&P)