

**GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT
OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM, CHENNAI-600 005
PRESENT: DR. T.V. SOMANATHAN, I.A.S.,
COMMISSIONER OF STATE TAX**

Circular No. 27(2018)/2019-TNGST
(RC No.151/2018/A1/Taxation)

Dated:29.03.2019

Sub:	Clarifications of certain issues under GST- regarding
Ref:	Circular No. 47/21/2018-GST, dated 08.06.2018 issued by the Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

Sl.No	Issue	Clarification
1	Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and	1.1 Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component

	<p>whether OEMs are required to reverse input tax credit in this case?</p>	<p>manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.</p> <p>1.2 It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis</p> <p>shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Tamilnadu Goods and Services Tax Act, 2017 (TNGST Act for short).</p> <p>1.3 However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components. In such cases, the OEM will be required to reverse the credit availed</p>
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		on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business.
2	How is servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, to be treated under GST?	<p>2.1 The taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case.</p> <p>2.2 Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.</p>
3	In case of auction of tea, coffee, rubber etc., whether the books of accounts are required to be maintained at every place of business by the principal and the auctioneer, and whether they are eligible to avail input tax credit?	<p>3.1 The requirement of maintaining the books of accounts at the principal place of business and additional place(s) of business is clarified as below:</p> <p>(a) For the purpose of auction of tea, coffee, rubber, etc., the principal and the auctioneer may declare the warehouses, where such goods are stored, as their additional place of business. The buyer is also required to disclose such warehouse as his additional place of business if he wants to store the goods purchased through auction in such warehouses. For the purpose of supply of tea through a private treaty, the principal and an auctioneer may also comply with the said</p>

		<p>provisions.</p> <p>(b) The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, are required to maintain the books of accounts relating to each and every place of business in that place itself in terms of the first proviso to sub-section (1) of section 35 of the TNGST Act. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s).</p> <p>(c) The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall intimate their jurisdictional officer in writing about the maintenance of books of accounts relating to the additional place(s) of business at their principal place of business.</p> <p>3.2 It is further clarified that the principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private</p>
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		treaty, shall be eligible to avail input tax credit subject to the fulfillment of other provisions of the TNGST Act read with the rules made thereunder.
4	In case of transportation of goods by railways, whether goods can be delivered even if the e-way bill is not produced at the time of delivery?	As per proviso to rule 138(2A) of the Tamilnadu Goods and Services Tax Rules, 2017 (TNGST Rules for short), the railways shall not deliver the goods unless the e-way bill is produced at the time of delivery.
5	Whether e-way bill is required in the following cases- (i) Where goods transit through another State while moving from one area in a State to another area in the same State. (ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State.	(i) It may be noted that e-way bill generation is not dependent on whether a supply is inter-State or not, but on whether the movement of goods is inter-State or not. Therefore, if the goods transit through a second State while moving from one place in a State to another place in the same State, an e-way bill is required to be generated. (ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State, there is no requirement to generate an e-way bill, if the same has been exempted under rule 138(14)(d) of the TNGST Rules.

2. This pari materia circular is issued with reference to the circular issued by the Government of India on the recommendation of the GST Council in the reference cited.

Sd/-T.V.Somanathan
Commissioner of State Tax

To

All the Joint Commissioners (ST) Territorial and Enforcement in the State.

Copy to: (1) Principal Secretary to CT& Regn. Department.

(2) All Additional Commissioners of State Tax in the
Commissionerate.

(3) Joint Commissioner (CS) for hosting in Departmental site.

(4) All Deputy Commissioners (ST) in the State.

(5) All Assistant Commissioners (ST) in the State.