

पत्रांक: जी.एस.टी./2018-19/ 1819079 / 1047

/वाणिज्य कर  
कार्यालय- कमिश्नर, वाणिज्य कर,  
उत्तर प्रदेश।  
(जी.एस.टी. अनुभाग)

लखनऊ: दिनांक: 07 जनवरी, 2019

समस्त जोनल एडीशनल कमिश्नर, ग्रेड-1  
एडीशनल कमिश्नर ग्रेड-2(वि0अनु0शा0)  
समस्त ज्वाइन्ट कमिश्नर (कार्य0)/(वि0अनु0शा0)  
वाणिज्य कर, उत्तर प्रदेश।

विषय:- टैक्स अथारिटीज द्वारा कम्पोजिशन की अस्वीकृति तथा उक्त की प्रभावी तिथि से सम्बन्धित प्रक्रिया के सम्बन्ध में।


जी0एस0टी0 काउन्सिल द्वारा लिये गये निर्णयों के क्रम में CBIC(सेन्ट्रल बोर्ड ऑफ इन्डायरेक्ट टैक्सेस एण्ड कस्टम) द्वारा टैक्स अथारिटीज के स्तर से कम्पोजिशन की अस्वीकृति तथा उक्त की प्रभावी तिथि से सम्बन्धित प्रक्रिया के सम्बन्ध में परिपत्र सं0- 77/51/2018-जी0एस0टी0 दिनांक 31.12.2018 को जारी किया गया। यह परिपत्र सी0जी0एस0टी0 अधिनियम तथा नियमावली के प्रावधानों से सम्बन्धित प्रक्रिया के स्पष्टीकरण के सम्बन्ध में है। सी0जी0एस0टी0 अधिनियम तथा नियमावली के समतुल्य प्रावधान, उत्तर प्रदेश एस0जी0एस0टी0 अधिनियम तथा नियमावली में भी हैं। CBIC द्वारा जारी उक्त सन्दर्भित परिपत्र में वर्णित प्रक्रिया के अनुरूप उत्तर प्रदेश एस0जी0एस0टी0 अधिनियम/नियमावली के अन्तर्गत भी कार्यवाही औचित्यपूर्ण होगी।

उक्त सन्दर्भित परिपत्र की छायाप्रति इस पत्र के साथ संलग्न कर इस अनुरोध के साथ प्रेषित है कि कृपया अपने अधीनस्थ अधिकारियों को अवगत कराते हुए तदनु रूप कार्यवाही हेतु निर्देशित करने का कष्ट करें।

यह पत्र कमिश्नर, वाणिज्य कर, उत्तर प्रदेश के अनुमोदनोपरांत जारी किया जा रहा है।

संलग्नक:- उपरोक्तानुसार।

भवदीय,

  
(विवेक कुमार)

एडीशनल कमिश्नर (जी.एस.टी.),  
वाणिज्य कर, उत्तर प्रदेश।

F. No. CBEC-20/16/04/2018-GST  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs  
GST Policy Wing  
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New Delhi, Dated the --<sup>th</sup> December, 2018

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/  
Commissioners of Central Tax (All)

The Principal Directors General/Directors General (All)

**Subject: Denial of composition option by tax authorities and effective date thereof - Reg.**

Madam/Sir,

Rule 6 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") deals with the validity of the composition levy. As per the said rule, the option exercised by a registered person to pay tax under the composition scheme shall remain valid so long as he satisfies the conditions mentioned in section 10 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") and the CGST Rules. The rule lays down the procedure for withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme and also the procedure for denial of option to the taxpayer to pay tax under the said scheme where he has contravened the provisions of the CGST Act or the CGST Rules.

2. In this connection, doubts have been raised as to the date from which withdrawal from the composition scheme shall take effect in a case where the composition taxpayer has exercised such option to withdraw. Doubts have also been raised regarding the effective date of denial of the option to pay tax under the composition scheme where action has been initiated by the tax authorities to deny such option to the composition taxpayer. Further, clarification has been sought regarding the follow up action to be taken by the tax authorities

when the composition option is denied to the taxpayer retrospectively. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues raised as below.

3. Sub-rule (2) of rule 6 of the CGST Rules provides that the composition taxpayer shall pay tax under sub-section (1) of section 9 of the CGST Act as a normal taxpayer from the day he ceases to satisfy any of the conditions of the composition scheme and shall issue tax invoice for every taxable supply made thereafter. Sub-rule (3) of rule 6 of the CGST Rules provides that the registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in **FORM GST CMP-04** on the common portal. He shall file intimation for withdrawal from the scheme in **FORM GST CMP-04** within seven days of the occurrence of such event.
4. As per sub-rule (4) of rule 6 of the CGST Rules, where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 of the CGST Act or has contravened the provisions of the CGST Act or the CGST Rules, he may issue a notice to such person in **FORM GST CMP-05** to show cause as to why the option to pay tax under section 10 of the CGST Act shall not be denied. Upon receipt of the reply to the show cause notice from the registered person in **FORM GST CMP-06**, the proper officer shall, in accordance with the provisions of sub-rule (5) of rule 6 of the CGST Rules, issue an order in **FORM GST CMP-07** within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 of the CGST Act from the date of the option or from the date of the event concerning such contravention, as the case may be.
5. It is clarified that in a case where the taxpayer has sought withdrawal from the composition scheme, the effective date shall be the date indicated by him in his intimation/application filed in **FORM GST CMP-04** but such date may not be prior to the commencement of the financial year in which such intimation/application for withdrawal is being filed. If at any stage it is found that he has contravened any of the provisions of the CGST Act or the CGST Rules, action may be initiated for recovery of tax, interest and penalty. In case of denial of option by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date as may be determined by tax authorities, but shall not be prior to the date of contravention of the provisions of the CGST Act or the CGST Rules. In such cases, as provided under sub-section (5) of section 10 of the

CGST Act, the proceedings would have to be initiated under the provisions of section 73 or section 74 of the CGST Act for determination of tax, interest and penalty for the period starting from the date of contravention of provisions till the date of issue of order in **FORM GST CMP-07**. It is also clarified that the registered person shall be liable to pay tax under section 9 of the CGST Act from the date of issue of the order in **FORM GST CMP-07**. Provisions of section 18(1)(c) of the CGST Act shall apply for claiming credit on inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the date immediately preceding the date of issue of the order.

4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

5. Difficulties, if any, faced in implementation of the above instructions may be brought to the notice of the Board at an early date. Hindi version would follow.

(Upender Gupta)  
Commissioner (GST)