



**Office of the Commissioner,
State Tax, Uttar Pradesh
(GST Section)**

**Letter No. GST/2024-25/ 90 /State Tax
Lucknow: Dated: 05, July, 2024**

To,

**All Zonal Additional Commissioner Grade -1,
Additional Commissioner Grade -2 (S.I.B.)
Joint Commissioner (Executive/Corporate Circle/ S.I.B)
State Tax, Uttar Pradesh.**

Subject: Clarification on time of supply of services of spectrum usage and other similar services under GST -reg.

Representations have been received from the trade and the field formations seeking clarification regarding the time of supply for payment of GST in respect of supply of spectrum allocation services in cases where the successful bidder for spectrum allocation (i.e. the telecom operator) opts for making payments in instalments under deferred payment option as per Frequency Assignment Letter (FAL) issued by Department of Telecommunication (DoT), Government of India.

In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Commissioner, in exercise of its powers conferred by section 168 of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to As "UPGST Act"), hereby clarifies the issues as under:

S.No.	Issue	Clarification
1.	<p>In cases of spectrum allocation where the successful bidder (i.e. the 'telecom operator') opts for making payments in instalments as mentioned in the Notice Inviting Application (NIA) and Frequency Assignment Letter (FAL) issued by Department of Telecommunications (DoT), Government of India, what will be the time of supply for the purpose of payment of GST on the said supply of spectrum allocation services.</p>	<p>Under the spectrum allocation model followed by DoT, bidder (the telecom operator) bids for securing the right to use spectrum offered by the government. Here, service provider is the Government of India (through DoT) and service recipient is the bidder/ telecom operator. The GST is to be discharged on the supply of spectrum allocation services by the recipient of services (the telecom operator) on reverse charge basis [Notification No. KA.NI.-2-844/XI-9(47)/17-U.P.Act-1-2017-Order-(11)-2017 Dated 30.06.2017].</p> <p>2.1 In respect of the said supply of spectrum allocation services, if the telecom operator chooses the option to make payment in installments, the payment has to be made spread over the contract period in installments and payment for each installment is to be made after specified periods, as specified in the Frequency Assignment Letter of DoT, which is in the nature of contract. The same is a '<u>continuous supply of services</u>' as defined under section 2(33) of the UPGST Act, since the supply of services (spectrum usage) is agreed to be provided by the supplier (DoT) to the recipient (telecom operator) continuously for a period which is exceeding three months with periodic payment obligations.</p> <p>2.2 As per section 13(1) of UPGST Act,</p>


		<p>the liability to pay tax on supply of services shall arise at the time of supply. In case of forward charge supplies, the time of supply of services is governed by section 13(2) of UPGST Act, which is the earlier of date of issue of invoice by the supplier or date of provision of service or the date of payment, as the case maybe.</p> <p>2.3 However, in respect of supply of services, on which tax is paid or liable to be paid on reverse charge basis, as per Section 13(3) of UPGST Act, 2017, the time of supply of services shall be the earlier of the following dates, namely:-</p> <p>(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or</p> <p>(b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.</p> <p>2.3.1 Some of the field formations are considering the Frequency Assignment Letter issued by DoT as akin to any other document, by whatever name called, in lieu of an invoice mentioned in clause (b) of section 13(3) of UPGST Act and are demanding interest on instalments paid after 60 days from the date of issue of the same.</p> <p>2.3.2 It is observed that Frequency</p>
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		<p>Assignment Letter is in the nature of a bid acceptance document intimating the telecom operator that the result of the auction has been accepted by the competent authority and the details of blocks and spectrum allotted to the telecom operator. The Frequency Allotment Letter also mentions the options and the amounts to be paid by the telecom operator in each of the two options.</p> <p>2.4 Further, as per section 31(5)(a) of UPGST Act, in cases of continuous supply of services, where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before such due date of payment. In the instant case, the date of payment to be made by the telecom operator to DoT is clearly ascertainable from the Notice Inviting Applications read with the Frequency Assignment Letter. Accordingly, tax invoice will be required to be issued in respect of the said supply of services, on or before such due date of payment as per the option exercised by the telecom operator.</p> <p>3. In the light of above, it is clarified that in case where full upfront payment is made by the telecom operator, GST would be payable when the payment of the said upfront amount is made or is due, whichever is earlier, whereas in case where deferred payment is made by the telecom operator in specified installments, GST would be payable as and when the payments are due or made,</p>
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		<p>whichever is earlier.</p> <p>4. It is also clarified that the similar treatment regarding the time of supply, as is discussed in the above paras, may apply in other cases also where any natural resources are being allocated by the government to the successful bidder/ purchaser for right to use the said natural resource over a period of time, constituting continuous supply of services as per the definition under section 2(33) of the UPGST Act, with the option of payments for the said services either through an upfront payment or in deferred periodic installments over the period of time.</p>
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3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Undersigned.

By Order,


(Dr. Nitin Bansal)

Commissioner, State Tax, U.P.

Copy To:

1. Joint Commissioner (I.T.), State Tax HQ, Lucknow for uploading the Circular on the Departmental Website.


Joint Commissioner(GST)
State Tax HQ, Lucknow.