

# **GST** **GUIDE**



**E-ticketing Mandatory w.e.f  
01.09.2019**

**GST rate cut on Electric Vehicles**

**End Consumers charged Kerala  
Flood Cess w.e.f 01.08.2019**

**ITES – Export of Service or  
Intermediary Service?**

**GSTR-3B not a GST return (Guj.  
HC)**

**GST Portal ready with the New Trail  
Returns-GST 2.0**

**Want a solution for E-way Bill filing  
– RAMA Iris Topaz will provide you**



# CONTENTS



**1** Notifications, Circulars & Amendments to GST Laws

**2** Advance Authority Rulings (AAR / AAAR)

**3** Important Decisions by Courts

**4** Updates on RAMA-IRIS GST Compliance Tool & GST Portal

**5** GST News



# Notifications, Circulars and Amendments to Law/Rule



## a. Changes to the CGST Rules- Central Goods and Services Tax (Fifth Amendment) Rules, 2019(Notification No. 33/2019-Central Tax, dt. 18-Jul-19)-

Following amendments are made in the CGST rules:

- i. E-ticketing introduced for exhibition of cinematograph films in multiplex screens.
  - ii. The GST registration rules are now amended to include reference to TDS deduction provision Section 52 of CGST Act.
  - iii. A new rule for Surrender of enrolment of goods and services tax practitioner.
  - iv. A new rule is introduced for application for unblocking of the facility for generation of E-Way Bill and order thereof
  - v. The declaration statement in Statement 5B while applying for GST refund for deemed exports is changed.
- ## b. Extension of due date for furnishing GST CMP-08 for the Quarter Apr-19 to Jun-19 (Notification No. 35/2019-Central Tax, dt. 29-Jul-19):-

Due date for furnishing the statement containing the details of payment of self-assessed tax in said **FORM GST CMP-08**, for the quarter Apr-19 to Jun-19, or part thereof, shall be the **31- Aug-19**.

- c. **Insertion of new Entry for Charger or charging station for Electrically operated vehicles and Reduction in Tax Rate on Electric Vehicle and charger [Notification No. 12 & 13 /2019-CT-R/IT-R/UT-R dt.31-Jul-19] :-** The following rate cuts are announced in the said notification

Items	Before Notification	After Notification
Electric chargers	18%	5%
Electric vehicles	12%	5%
A full exemption is given to hiring of e-buses (seating capacity exceeds 12 passengers) by local authorities.		

## RAMA Says :

*The move is seen as much needed step to encourage the adoption of Electronic Vehicles by people, in line with the Government's aggressive push for adoption of Electric Vehicles.*

## d. All you need to know about Kerala flood Cess (KFC)

☐ KFC is applicable from the 1-Aug-19 onwards as per Notification No. S.R.O. 436/2019 dated 29-Jun-19 for a period of two years in order to raise the funds required for re-construction of State after devastating flood.

- i. KFC is to be levied only on **“Intra – State Supplies”** made to **“Unregistered Person”**.
- ii. KFC shall be collectible on **“Taxable Value”** as per section 15 of CGST Rules of the outward Supply at the rates mentioned below-

Sr. No.	Category of Supply	Rate of KFC
1	Goods Taxable at 0.125% under SGST	Nil
2	Goods Taxable at 1.5% under SGST	0.25%
3	Goods and Services Taxable at 2.5% under SGST	Nil
4	Goods or Services or both taxable at 6%, 9% or 14% under SGST	1%

### ***Provided that KFC shall not be levied on:-***

- *Supplies made by composite dealers as per section 10*
- *Supplies of goods and services or both made by a registered taxable person to another registered taxable person*
- *Supplies of goods and services or both exempted by notifications issued under section 11 of the Kerala GST Act 2017*

- iii. It shall be shown separately on the Invoice.
- iv. One-time registration need to be obtained from the website - [www.keralataxes.gov.in](http://www.keralataxes.gov.in).
- v. Monthly e-payment shall be done before 20th of the next month.
- vi. Details of Intra State Supplies made to Unregistered Person as furnished in GSTR 1 shall match with details of Form KFC-A.
- vii. Interest @18% will be applicable for delayed payment of Cess.
- viii. There shall be no refund of KFC paid along with the returns.

# Notifications, Circulars and Amendments to Law/Rule

## i. Clarification on issues related to Supply of Information Technology Enabled Services (ITES). (Circular No. 107/26/2019-GST dated 18-Jul-19)

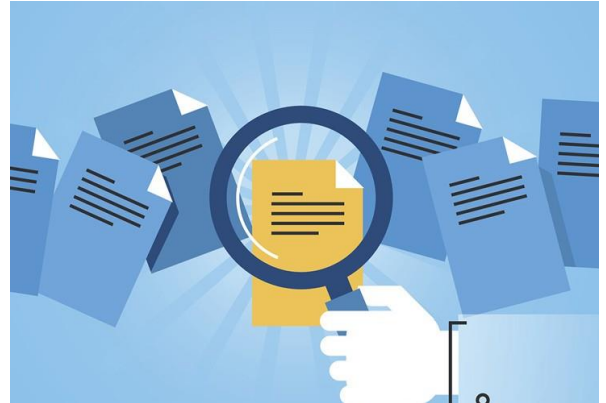
The circular provides clarification on various IT enabled services such as call centre, business process outsourcing etc. and the intermediary service provided to overseas entity and whether these services will be qualified as “Export of Services”.

The GST taxability on the above has been explained by giving following 3 Scenarios:

**Scenario 1:** Supplier of ITES provides backend Intermediary services. The supplier here will not be covered under the ambit of Intermediary services as these services are provided on its own account.

Even if such services are provided on behalf of its client to client’s customers, but actually services on his own account will not classify as Intermediary services. The same will be considered as export of services provided it falls under the definition of export of service.

**Scenario 2:** Supplier of backend services located in India arranges or facilities supply of goods or services or both by the client located in abroad



for the customers of clients. Such services may include various kind of support services to facilitate such supply. In scenario such services will fall under the ambit of intermediary services and the place of supply of such service shall be location of service provider.

**Scenario 3:** The supplier of services provides both service as mentioned in scenario 1 & 2 i.e. ITES on his own account as well as arranging the support services for customers of client. In such scenario the GST taxability is defined on case to case basis considering the component of principal supply.

➤ **RAMA Says:** This circular has brought in a major clarification between intermediary services and Export of Services. The taxability of the transaction will depend upon whether the services are provided on its own account or as an intermediary services.

Several back offices of BPOs and KPOs will have to pay GST @ 18% after the release of this circular as it clarifies that

# Notifications, Circulars and Amendments to Law/Rule

certain services should not be categorized as exports. As per the earlier tax regime, these companies did not attract any tax.

## ii. Clarification on activity of sending/taking goods out of India for Exhibition or on consignment basis for export promotion (Circular No. 108/27/2019-GST- dated 18-Jul-19)

The circular clarifies that the activity of movement of goods out of India for exhibition or on consignment basis for export promotion, except if the activity satisfy the tests laid down in Schedule I of CGST Act, do not constitute supply as there is no consideration, the activity does not fall within the scope of section 7 of CGST Act.

Since such activity is not a supply, the same cannot be considered as “Zero Rate supply as per the provisions contained in section 16 of IGST Act.

Further following clarifications are made:-

- a. Records to be maintained by registered person dealing in specified goods as per Annex attached to this circular
- b. Such supplies shall be accompanied with a Delivery Challan as documentation.



- c. Supply shall take place only after goods sent for approval is sold or six months from the date of delivery is lapsed and the goods are not brought back. At the time of supply, tax invoice should be raised.
- d. Refund to suppliers in such supply shall be available only for the goods actually being sold and Invoice been issued.
- e. For the goods for which six months from the date of delivery has been lapsed and the goods are not brought back, no refund shall be applicable even after Invoice is been issued.

**RAMA Says:** The circular released by the Department had defined the procedure for movement of goods outside India for exhibition. The major beneficiaries of this circular is jewellery exporters.

# Notifications, Circulars and Amendments to Law/Rule



- iii. **Clarification is made towards Monthly Maintenance Charges paid by Resident Welfare Association (RWA). (Circular No. 109/27/2019-GST- dated 18-Jul-19)**

Annual Turnover of RWA	Monthly Maintenance Charge	Whether Exempt?	Eligible for ITC on Capital Goods, Goods / Services
More than Rs. 20 Lacs	< Rs.7500	No	No
	>= Rs. 7500	Yes	Yes
If the Turnover is less than Rs.20 lacs	< Rs.7500	Yes	No
	>= Rs. 7500		

The taxable value for GST payable will be total value of consideration charged to members where the consideration exceeds Rs.7500. For E.g.:- if the Monthly Maintenance Charges is Rs 10,000 GST will be levied at Rs.10,000 and not only on Rs.2500.

In case of multiple houses being owned by single member, each house will be counted separately for above limit of Rs.7500 per month per member.

# Advance Authority Rulings (GST)

## **Case 1 : GST is leviable on subscription received by National Institute of Bank Management by RBI and PSBs: AAR, Maharashtra**

Case Name: National Institute of Bank Management

Appeal No: ORDER NO.GST-ARA-139/2018-19/B-75

Date: JUN-25-19

Court: AUTHORITY FOR ADVANCE RULINGS, MAHARASHTRA

### **Facts of the Case:**

Applicant, a registered society under Societies Registration Act, 1860, receives certain amount of contribution from public sector banks and RBI to cover certain recurring and non-recurring expenses incurred by them for promotion and conducting of research in matters pertaining to the improvement of banking operations, pertaining to the maximum augmentation and effective deployment of banks resources.

### **Matter under Consideration:**

It seeks advance ruling on issue as to whether consideration paid as subscription or contribution towards recurring or capital expenses or reimbursement or by whatever name called to applicant (NIBM) is leviable to GST?



### **Observations and Findings:**

On the contention of the Assessee that GST is not applicable on contributions collected / received, as the contributions cannot be held as 'consideration' since there is no supply.

The court observed that the contributions were received by applicant for promotion and conducting of research in matters pertaining to the improvement of banking operations, pertaining to the maximum augmentation and effective deployment of banks' resources, and thus to receive contributions, applicant must carry out the activities entrusted to it and these activities are nothing but supply of services by it rendered in lieu of the receipt of contributions collected / received.



# Advance Authority Rulings (GST)

## Ruling:

The Authority held that taxable services are supplied by the applicant for consideration (in this case contributions received for performing activities mentioned in the MOA) received in furtherance of their business and thus contributions received by the applicant is nothing but consideration for the entire gamut of services supplied by them and GST is payable on such contributions.

**RAMA Says:-** The Ruling given by the Authority is pretty straight and in line with the provisions of law. For any activity to be taxable under GST - there shall be two or more persons and there shall be supply of activity for consideration in the course or furtherance of business. Since all the three elements are present in the given case, it was ruled as taxable

## Case 2 : No GST on Renting of residential property for residence to company

Case Name: Borbtheta Estate (P.) Ltd.

Appeal No: ORDER NO.  
13/WBAAR/2019-20

Date: JUN-27-19

Court: AUTHORITY FOR ADVANCE  
RULINGS, WEST BENGAL



## Facts of the Case:

The Applicant, Borbtheta Estate Pvt Ltd is into, inter alia renting of residential dwelling units. The applicant rented residential dwelling to M/s Larsen & Toubro Ltd. He seeks a ruling on whether the supplier is liable to pay GST on such supply even if the recipient is using the dwelling unit for residential purpose.

## Matter under Consideration:

He seeks a ruling on whether the supplier is liable to pay GST on such supply even if the recipient is using the dwelling unit for residential purpose.

## Observations and Findings:

It appears that the dwelling unit rented to M/s Larsen & Toubro Ltd is a flat in the housing complex named South City. The South City Apartment Owners' Association certifies that the Applicant owns the flat and it is a residential flat and cannot be used for any other purpose.

# Advance Authority Rulings (GST)

The Applicant's service is classifiable as rental or leasing service involving own/leased residential property (SAC 997211). Applicability of SI No. 12 of the Exemption Notification depends upon whether the dwelling unit is used as residence.

It appears from the documents produced that all the above dwelling units are being used for residence, irrespective of whether they are let out to individuals or a commercial entity. The Applicant's service of renting/leasing out the dwelling units for residential purpose is, therefore, exempt under SI No. 12 of the Exemption Notification.

## **Ruling:**

The Applicant's service of renting/leasing out the dwelling units for residential purpose, as described in para no. 4.1, is exempt under SI No. 12 of Notification No. 1212017-CT (Rate) dated 28-Jun-17 (corresponding State Notification No. 1136 - FT dated 28-Jun-17), as amended from time to time. The Applicant is, therefore, not liable to pay tax on supply of such service.



## **RAMA Says:**

There is no ambiguity whether the dwelling unit rented by the Assessee is used as residence or not which was the main point of contention of the ruling. The ruling is in line with the provisions of the Law.

# Recent Case Laws (GST)

**Form GSTR-3B not a “return” held by Gujarat High Court in the case of AAP & Company, Chartered Accountants v/s Union of India.**

**Facts of the Case:**

- i. **1. Section 16(4) – Eligibility to avail Input Tax Credit (‘ITC’):** As per the provisions of Section 16(4) of the CGST Act, a Registered Taxpayer shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods/ services/ both after the earlier of the following dates:
  - a. Due date of furnishing of the return under Section 39 for the month of September following the end of the financial year
  - b. Furnishing of the relevant Annual Return
- ii. **Press Release by Government of India:** As per para 3 of the Press Release by the Government of India on 18-Oct-18, the last date for availing ITC in relation to the invoices issued by the supplier(s) during the period from Jul-17 to Mar-18 is the last date for the filing of such return for the month of Sep-18 i.e., 20-Oct-18, as taxpayers have been self-assessing and availing ITC through FORM GSTR – 3B.



- iii. The Press Release was challenged before the Gujarat High Court on the ground that Para 3 of the Press Release was not valid as Form GSTR – 3B is not a ‘return’ for the purpose of availing ITC under the CGST Act.

**Decision:**

- a. Form GSTR – 3B is not the monthly return contemplated under the provisions of Section 39 of the CGST Act.
- b. Para 3 of the Press Release dated 18-Oct-18 is contrary to the provisions of Section 16(4) read with Section 39(1) of the CGST Act in turn read with Rule 61 of the CGST Rules.
- c. The Press Release dated 18-Oct-18 is partly illegal to the extent of Para 3 which purports to clarify that

## Recent Case Laws (GST)

‘the last date for availing ITC relating to the invoices issued during the period from Jul-17 to Mar-18 is the last date for the filing of return in Form GSTR-3B for the month of Sep-18.’

**RAMA Says:** This Judgement has brought a very big confusion across the industry with regards to availability of ITC. It contradicts the annual return form, as in in table 8 of ITC information “Comparison of ITC as per GSTR-2A and ITC as per GSTR 3B” is to be provided.

Further the difference of comparison in cases ITC is available as per GSTR-2A and not claimed in GSTR-3B has to be declared as ITC available but not availed as the time period is lapsed.

Hence such ITC declared is ultimately reflected as ITC lapsed. If the above Judgement holds true, then such ITC should not have been lapsed in the annual return.

At present, the filing of annual return for FY 17-18 is around the clock thus such judgement from High Court brings a discomfort amongst the GST professionals in the industry. Most of the taxpayers have already filed the Annual Return.

If the clarification comes for the ITC to be availed, it may be a big loss to them as till date there is no provision of



revision of Annual Return. Clarification on the “GSTR-3B not a return” is need of the industry right now.

# GST Portal Functionality

- i. **New Trail Returns:** Tab for new returns for the trial purpose has now been enabled on the portal.



- In case of taxpayers having turnover of more than Rs.5 crores, they need to file monthly returns.
- In case if the taxpayers have turnover of less than Rs.5 crores, they have the option to file Sugam, Sahaj or Quarterly Normal. Comparison of three forms are as under:-

Particulars	Normal (GST RET-1)	Sahaj (GST RET-2)	Sugam (GST RET-3)
Periodicity	Quarterly or Monthly	Quarterly	Quarterly
Aggregate Turnover	> 5 crore : Mandatory < 5 Crore : Optional	Upto 5 Crore	Upto 5 Crore
<b>Type of Outward Supply</b>			
B2B	Yes	No	Yes
B2C	Yes	Yes	Yes
Exports	Yes	No	No
SEZ units/developers	Yes	No	No
Deemed Exports	Yes	No	No
Supply to E-commerce Operator	Yes	No	No
Nil Rate, Exempted or Non GST	Yes	Yes	Yes
<b>Type of Inward Supply</b>			
RCM	Yes	Yes	Yes
Import of Service	Yes	No	No
Import of Goods	Yes	No	No
Import of Goods From SEZ	Yes	No	No
ISD Credits received	Yes	No	No
HSN Code (6 Digit)	T/o > 5 crores, in relation to exports, imports and SEZ supplies, mandatory; T/o <5 crore or equals to 5 crores then optional.	Optional	Optional

- It may be noted that you can change your filing frequency and/or return type in 'Manage Return Profile' section in case of taxpayers having turnover of less than Rs.5 crores in preceding financial year
- ii. CMP-08 a Statement-cum-challan for Composition Taxpayers has been enabled on the GST Portal.

# RAMA IRIS GST - New Features

- i. **RAMA IRIS Topaz** can be accessed through multiple interfaces i.e. Topaz web portal, Topaz desktop utility tool and Topaz API.

Let's understand about these ways to interact with IRIS Topaz:

- a. **Topaz web Portal** - It is web portal. Where we can generate one by one E-way bill and then in View section we can view all e-way bills generated by us, generated by others as well as e-way bills assigned to us as a transporter.

- b. **Topaz desktop utility tool** - It is an excel based utility tool. For doing bulk generation of E-way bills as well as taking bulk actions like update e-way bills, cancel e-way bills, reject e-way bills. There is a linking between this desktop utility tool and web portal. So whatever actions and generation done from this desktop utility it will immediately get reflected in the view section of Topaz web portal as well as in portal. In which Invoice values, HSN details and distance will be automatically calculated.

- c. **Topaz API** - It is automated process through which we can generate as well as we can take actions on e-way bills. But for this, we need to integrate RAMA IRIS Topaz API in ERP system.



- ii. Two kind of print options are available "Summary Print" as well as "Detailed Print".
- iii. **Alert Mailer Facility:-** Every day we can receive alert mailer on set timings regarding expiring E-way bills.
- iv. Masters can also be maintained related to Customers, Vendors and Transporters for which details such as Supply type, Trade name, GSTIN/Transporter ID is required.

For demo enquiry, please contact  
**Mr. Kapil Bansal: +91 97693 63338**

i. **Marriott fined Rs 25k for GST on banana bill to Rahul Bose. FHRAI says tax was not illegal-** Chandigarh Excise and Taxation Department imposed a penalty of Rs.25000 on 28-Jul-19 on JW Marriott hotel for illegally levying 18% tax on fresh fruit (bananas) which is a tax-free item under GST. The hotel had charged actor Rahul Bose Rs.442.50 (including GST) for 2 bananas. The step has been taken after posting of a video on Twitter by Mr. Bose expressing shock at being charged such a huge amount for 2 bananas.

**RAMA Says:-** *As per notification no. 46/2017 CT(R) GST at the rate of 18% will be levied if the restaurant which is located inside hotel having tariff of Rs. 7500 or more. The supply made by restaurant is classified as supply of service as per Schedule II of the CGST Act, 2017. So as per law the restaurant is providing service and not selling goods. The hotel is not selling banana as "goods" its providing "goods being food for human consumption at the restaurant" which is a service. Therefore the GST rate charged by hotel seems to be in line with law and the said notification.*

ii. The Directorate General of GST Intelligence Hqrs. (DGGI Hqrs.) has



arrested one person, namely, Shri Anupam Singla, Haryana, who had created about 90 fake firms for the purpose of issuing bogus invoices without supply of goods. The firms issued invoices worth Rs. 7,672 Crore, with a GST component of Rs. 660 Crore. The said firms have passed on fraudulent ITC to some of the well-established Traders and Cotton Yarn Spinners.

iii. As on 20-Jun-19, based on the Investigation Reports sent by the Directorate General of Anti-profiteering (DGAP), the National Anti-profiteering Authority (NAA) has passed 67 orders out of which 26 cases were confirmed for profiteering by businesses, with profiteering amounting to Rs. 600.51 crores.

# GST Compliance Calendar

Compliance Calendar			
Due Date	Forms	Period	Remarks
10-08-2019	GSTR-8	Jul-19	Filed by E-commerce Operator for the TCS deducted under GST
11-08-2019	GSTR-1	Jul-19	Details of Outward Supplies
13-08-2019	GSTR-6	Jul-19	Filed by ISD
20-08-2019	GSTR-3B	Jul-19	Summary of Outward and Inward Supply along with payment
21-08-2019	GSTR 5-5A	Jul-19	Filed by NRTP & OIDAR
31-08-2019	GSTR-7	Jul-19	Filed by person required to deduct TDS under GST
31-08-2019	GSTR-9/9A	FY 17-18	Annual Return
31-08-2019	GSTR 9C	FY 17-18	Annual Audit Form
31-08-2019	ITC-04	July-17 to March-19	Input Tax Credit for Jobwork declaration
31-08-2019	GST CMP -08	April-19 to June-19	Self assessed tax statement cum challan for composition dealers.

**Disclaimer:** The views expressed in various sections of the guide are based on understanding of the GST Laws and study of notifications, circulars, rulings and judgements issued by various competent authorities, however, in no case these should be considered as opinion expressed on a particular scenario that would require a deeper understanding of the transaction in consideration.



**RAMA**, a boutique consulting firm having expertise in Risk & Business Advisory, Process & Systems (ERP) Consulting & Indirect Taxes across industries for corporates in India, UAE, USA, Africa & Europe.

RAMA is pool of Business, Process, Systems & Tax experts to provide comprehensive Risk, Assurance & Advisory services.

RAMA's IT arm is a **Microsoft Certified Partner** providing ERP Implementation & Consulting services.

**THANK YOU!**

 **Visit us at:** [www.rama.co.in](http://www.rama.co.in) / [www.ramaerp.in](http://www.ramaerp.in)

**Mumbai:** Unit 401, Hub Town Viva,  
Jogeshwari East, Shankarwadi  
Mumbai - 400060  
Contact: +91 22 6223 1063 / 1060

**Dubai:** M-01, Bank Street Building,  
Next to Citibank, Bur Dubai,  
P.O. Box: 120349, Dubai, UAE.  
Ph: +971 4 354 5186 / +971 4 352 9466