



GST Cell Updates

Summary of provisions related to GST under Reverse Charge, raising of invoices, Input Tax Credit, etc.

Dear Sir,

Please find below clarifications on various implications arising in respect of supplies liable to GST under Reverse Charge Mechanism.

Levy

Power to levy GST on recipient under reverse charge on notified goods and services arrives from Section 9(3) of the CGST Act, 2017 and corresponding Section 5(3) of the IGST Act which cast a liability on recipient for payment of GST on certain specified goods and services under reverse charge mechanism.

Similarly, Section 9(4) of the CGST Act, 2017 and Section 5(4) of the IGST Act, 2017 provides for payment of GST under reverse charge by the recipient in case of inward supplies of taxable goods or services from a supplier who is not registered under GST.

However, a small exemption has been granted from payment of GST under reverse charge under Section 9(4) or 5(4) of the Acts if the aggregate supply from all the unregistered suppliers in a day does not exceeds Rs. 5,000/-

Invoicing

In case of supplies from a registered person which are liable to GST under reverse charge, GST invoice will be issued by the registered supplier specifically mentioning that the tax is payable under reverse charge and will also show the amount of tax payable under reverse charge.

In case of supplies (whether notified or otherwise) from unregistered person, since the unregistered person may/ may not issue invoice for such supplies and would certainly not issue a 'GST invoice' (being unregistered), the law casts an additional responsibility upon the registered buyer of goods/ services, to raise an invoice on self ('self invoicing') for such purchases from unregistered persons. This liability is casted by clause (f) of sub section (3) of Section 31 of the CGST Act, 2017.

Further, a payment voucher is also required to be made by the registered buyer at the time of making payment to the supplier. The payment voucher is required to be made in respect of all supplies which are liable to GST under reverse charge whether received from registered or unregistered supplier.

Document for Input Tax Credit

The document for taking Input Tax Credit of GST paid under reverse charge on inward supplies from a registered supplier would be the GST Invoice issued by the registered supplier.

However, in case of supplies from an unregistered supplier, input tax credit would be available on the basis of the "self invoice" raised by the registered recipient/ buyer on self as required under clause (f) of Section 31(3) of the CGST Act, 2017.

Presentation in Returns

A. If supplier is registered

This is the case where supplier is registered and is supplying notified goods or services which are liable to GST under reverse charge.

The supplier will show the supplies made to registered persons attracting tax on reverse charge basis under **Table 4 B** "Supplies attracting tax on reverse charge basis" of **GSTR-1**.

As a result, the recipient/ buyer of the supplies will be able to see the details of such supply attracting tax on reverse charge basis received by them from registered suppliers under **Table 4** "Inward supplies received from a registered person on which tax is to be paid on reverse charge" of GSTR-2A.

Accordingly, the recipient/ buyer will provide the details of such supplies under **Table 4A** "Inward supplies received from a registered supplier (attracting reverse charge)" in GSTR-2.

B. If supplier is unregistered

It covers the cases where the supplier is unregistered and is supplying notified goods or services attracting GST under reverse charge or supplying goods or services which are not notified but are attracting GST under reverse charge in pursuance of Section 9(4) of the CGST Act, 2017.

In such a case, the supplier being unregistered will not file GSTR-1, as a result of which the recipient will not be able to see the details of such supplies in GSTR-2A. Consequently, the registered recipient/ buyer have to provide the details of such supplies under **Table 4B** "Inward supplies received from an unregistered supplier" in GSTR-2.

Further, it is to be noted that the Table 4B requires GSTIN of the supplier, however, in case of supplies from an unregistered person, the GSTIN of supplier will not be available, and therefore, the issue remains unanswered that whether the GSTIN of the recipient should be entered in lieu of the supplier or the column should be left blank. The issue awaits the return filing to become operational. In our opinion, GSTIN of the recipient should be entered in the column asking for the GSTIN of the supplier.

Time of Supply

A. For Goods

The time of supply shall be the earliest of the following dates:

- a) The date of receipt of goods by the recipient; or
- b) The date on which payment is entered in the books of account of the recipient or the date on which payment is debited in the bank account of the recipient, whichever is earlier; or
- c) The date immediately following thirty days from the date of issue of invoice or any other document issued in lieu of the invoice by the supplier.

Further, if time of supply is not determined as per above clauses then the time of supply shall be the date of entry is made in respect of such supply in the books of account of the recipient of supply.

B. For Services

The time of supply shall be the earliest of the following dates:

- a) The date on which payment is entered in the books of account of the recipient or the date on which payment is debited in the bank account of the recipient, whichever is earlier; or
- b) The date immediately following sixty days from the date of issue of invoice or any other document issued in lieu of the invoice by the supplier.

Further, if time of supply is not determined as per above clauses then the time of supply shall be the date of entry is made in respect of such supply in the books of account of the recipient of supply.

Place of Supply

The place of supply in respect of notified supplies from a registered person shall be determined as per the provisions of Section 10, 11, 12 & 13 of the IGST Act, 2017.

However, in case of supplies from an unregistered person where self invoice is required to be raised by the recipient as per the requirements of Section 31(3)(f) of the CGST Act, 2017, the location of such registered recipient becomes the “location of the supplier” thereby resulting into falling of location of supplier and recipient in the same state in every case. This means that the taxes to be charged on the self invoice on reverse charge basis will always be CGST + SGST.

NOTE ON INVESTMENT SUBSIDY ENTITLEMENT POST GST

Rajasthan Government has brought out Rajasthan Investment Promotion Schemes (“RIPS”) from time to time, to encourage people to set-up industries and promote industrial development in the State. Growth of industries not only helps in creating employment opportunities and economic development, but also increases tax revenues for the State as well as the Centre.

The Cement Industry is grateful to the State Government for granting customized packages from time to time.

INVESTMENT SUBSIDY UNDER PRE-GST REGIME:

The Industry is availing Investment and other subsidies as per the Investment Promotion Schemes of Government, which provide that investment subsidy shall be granted on the VAT and CST, which have become due and have been deposited by the enterprise.

Under the current regime, the VAT @ 14.5% and CST @ 2% is paid by the company after deducting input VAT, the subsidy @ 50% is claimed on the VAT and CST deposited by the Company.

The input VAT is available on purchase of goods from Rajasthan i.e. Gypsum, HDPE Bags, other raw material and consumables stores, which are purchased from the State only. The quantum of purchase of the input goods is not much in the cement industry. The major raw material is lime stone, which is sourced from the mines.

The major cost in the pre-GST regime comprised of services on which service tax was charged and the input tax credit of service tax was available from excise duty paid.

Major items of services, on which service tax was being paid were as under:

- a) Royalty
- b) Transportation services

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- c) Advertisement
- d) Marketing and Sales promotion
- e) Engineering services
- f) Legal and professional
- g) Repair & Maintenance
- h) Erection and Installation
- i) Misc. services

The input service tax impact was quite huge as compared to input VAT on the business of the Cement Industry. The Industries was able to claim the input of service tax paid on all the services from excise duty liability as service tax and excise duty were levied under central tax laws.

INVESTMENT SUBSIDY UNDER POST-GST REGIME:

Under the GST Regime, the complete Tax Structure has undergone a change and now the tax structure on cement is as under:

S.No.	Applicable Tax	Rate of Tax
01	IGST	28%
02	CGST	14%
03	SGST	14%

Similarly, all input goods and services will attract IGST, if imported or purchased from out of State and will attract CGST/SGST, if purchased from state.

We understand and appreciate that State Government is amending its Investment Promotion Schemes so that under GST Regime, the industry can continue to avail the benefits granted to them for promotion of industry and employment in the State of Rajasthan.

Under Pre-GST regime, the investment subsidy was granted on VAT and CST deposited. The eligible input VAT was reduced from the VAT liability and net amount was deposited with the State government.

POST-GST all goods and services procured from Rajasthan will have CGST and SGST in the same ratio. The services that attracted 14% service tax and were offset from excise duty, **will now be taxed at the rate of 18%, out of which 9% will be SGST and 9% will be CGST.**

There will be a huge input SGST on services like Royalty, Transportation services, Marketing and Sales and lot of other input services.

Earlier there was investment subsidy on CST 2% and now there will be no CST payments. Earlier the INPUT VAT was minimal and now with huge inflow of INPUT SGST, the **net payment towards SGST will drop significantly** and this will result in **huge drop in investment subsidy entitlement**, if the same basis of SGST due and deposited rule is followed for claiming investment subsidy.

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On one side there is decrease in output tax liability as there will no CST and on the other side, there will be huge input SGST due to change in tax structure. Therefore, this will result in much lower tax deposit on account of SGST and thereby it will reduce the investment subsidy entitlement.

The industries, which are already facing the heat due to slow down and recession, will further be badly hit due to huge drop in investment subsidy entitlement. The tax collection of State Government will increase, as it will get SGST on all services, which until now was service tax. The INPUT SGST on services has already been paid by some other service provider to the State Government. Thus, the tax collection of the State Government will increase on account of SGST on services.

OUR HUMBLE SUBMISSION:

Investment Subsidy entitlement will substantially reduce under GST regime, if it is granted based on the same rule of amount due and deposited under VAT regime.

We therefore, strongly request to grant the investment subsidy as under:

OPTION "A":

The entitlement of subsidy should be on GROSS SGST liability ignoring the input SGST/IGST.

OPTION "B":

In case Option A is not acceptable, the entitlement of subsidy should be on SGST due and deposited as increased by the INPUT SGST on services, and IGST set off taken from SGST.

Further, the time period for entitlement of subsidy be suitably increased to compensate the loss due to input SGST of services/IGST input.

The Industry is looking forward for a positive and urgent consideration on the matter.

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