



PUNJAB STATE TRANSMISSION CORPORATION LIMITED

(Regd. Office: PSEB, Head Office, The Mall, Patiala-147001, Punjab, India)

Corporate Identity Number - U40109PB2010SGC033814,

Office of CFO (Taxation Section), Shakti Sadan, Patiala

E-mail: ao-taxation@pstcl.org,

To

All DDO's (under PSTCL through website),
PSTCL, Patiala.

Memo No: -278-320/CFO/Taxation/40

Dated: - 31-03-2021

Subject: - Payment of GST under RCM in case of service received on account of renting of motor vehicle designated to carry passengers.

In continuation to GST circular 05/2019 dated 10.10.2019.

Government of India, Ministry of Finance (Department of Revenue) vide Notification No. 29/2019- CT (R), dated 31-12-2019 (**copy enclosed**) substituted the serial no. 15 as follows:

Sl. No	Category of Supply of Services	Supplier of Service	Recipient of Service
15.	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person other than a body corporate, who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6% to the service recipient.	Any body corporate located in the taxable territory.

Further clarification in this regard was also issued by Govt. of India, Ministry of Finance Department of Revenue (Tax research unit) vide Circular No. 130/2019 dated 31-12-2019 (**copy enclosed**).

Some of the Field Offices raised queries recently regarding applicability of GST on hiring of motor vehicle from unregistered person under Reverse Charge Mechanism. The matter was referred to GST expert with the approval of competent authority.

As per opinion received, PSTCL is required to pay GST under RCM on hiring of motor vehicle if it hires motor vehicle which is designed to carry passengers and the cost of fuel is included in the consideration charged by the person, from whom such motor vehicle is hired and such person (other than a body corporate), whether registered or unregistered, has not issued an invoice charging central tax at the rate of 6 per cent to PSTCL. As such PSTCL is required to pay GST @ 5% under RCM against such service

provided by a service provider-registered or unregistered, who has not issued an invoice charging central tax at the rate of 6%.

This is for your information and further necessary action, please.

This issues with the approval of competent authority.

DA/ As above

Harminde Singh

Accounts Officer/Taxation,
PSTCL, Patiala.

Endst No: - 321-343/CFO/Taxation/38

Dated: - 31.03.2021

Copy of the above is forwarded to the following for information and further necessary action please.

1. All Chief Engineers under PSTCL.
2. CAO/F&A, PSTCL Patiala.
3. Company Secretary, PSTCL, Patiala.
4. All Dy.CEs/SEs under PSTCL.
5. All Joint/Dy. CAOs / Dy. CAs under PSTCL.
6. All AOs under PSTCL (except DDOs).

DA/ As above

Harminde Singh

Accounts Officer/Taxation,
PSTCL, Patiala.

CC:

1. Sr. PS to CMD, PSTCL, Patiala.
2. Sr. PS to Director/Admn., PSTCL, Patiala.
3. Sr. PS to Director/F&C, PSTCL, Patiala.
4. Dy. Secy. to Director/Tech., PSTCL, Patiala.

} For kind information of worthy
CMD/Directors please.

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 29/2019- Central Tax (Rate)

New Delhi, the 31st December, 2019

GSR.....(E).- In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.13/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 692(E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, for serial number 15 and the entries relating thereto, the following shall be substituted, namely: -

(1)	(2)	(3)	(4)
"15	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to the service recipient	Any body corporate located in the taxable territory."

[F. No.354/204/2019 -TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: -The principal notification No. 13/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 692 (E), dated the 28th June, 2017 and was last amended by notification No. 22/2019 - Central Tax (Rate), dated the 30th September, 2019 *vide* number G.S.R. 737(E), dated the 30th September, 2019.

F. No. 354/189/2019-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax research Unit)

North Block, New Delhi,
Dated the 31st December, 2019

To,

The Principal Chief Commissioners/ Chief Commissioners/
Principal Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject– Reverse Charge Mechanism (RCM) on renting of motor vehicles -reg.

Suppliers of service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient have an option to pay GST either at 5% with limited ITC (of input services in the same line of business) or 12% with full ITC.

2. The GST Council in its 37th meeting dated 20.09.2019 examined the request to place the supply of renting of motor vehicles under RCM and recommended that the said supply when provided by suppliers paying GST @ 5% to corporate entities may be placed under RCM. RCM was not recommended for suppliers paying GST @12% with full ITC, so that they may have the option to continue to avail ITC. RCM otherwise would have blocked the ITC chain for them. Accordingly, the following entry was inserted in the RCM notification with effect from 1.10.19:

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
15	Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business	Any body corporate located in the taxable territory.

3. Post issuance of the notification, references have been received stating that when a service is covered by RCM, GST would be paid by the service recipient and not by the supplier.

Therefore, the wording of the notification that “any person other than a body corporate, paying central tax at the rate of 2.5%” is not free from doubt and needs amendment/ clarification from the perspective of drafting.

4. The matter has been examined. When any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure in law under RCM. There are only two rates applicable on the service of renting of vehicles, 5% with limited ITC and 12% with full ITC. The only interpretation of the notification entry in question which is not absurd would be that –

- (i) where the supplier of the service charges GST @ 12% from the service recipient, the service recipient shall not be liable to pay GST under RCM; and,
- (ii) where the supplier of the service doesn't charge GST @ 12% from the service recipient, the service recipient shall be liable to pay GST under RCM.

5. Though a supplier providing the service to a body corporate under RCM may still be paying GST @ 5% on the services supplied to other non body corporate clients, to bring in greater clarity, serial No. 15 of the notification No. 13/2017-CT (R) dated 28.6.19 has been amended vide notification No. 29/2019-CT (R) dated 31.12.19 to state that RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier fulfils all the following conditions:–

- (a) is other than a body-corporate;
- (b) does not issue an invoice charging GST @12% (6% CGST + 6% SGST) from the service recipient; and
- (c) supplies the service to a body corporate.

6. It may be noted that the present amendment of the notification is merely clarificatory in nature and therefore for the period 01.10.2019 to 30.12.2019 also, clarification given at para 5 above shall apply, as any other interpretation shall render the RCM notification for the said service unworkable for that period which is not permissible in law.

7. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

Yours Faithfully,

(Rachna)
OSD, TRU
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