

**JODHPUR VIDYUT VITRAN NIGAM LTD.**

Corporate Identity Number (CIN) -U40109RJ2000SGC016483

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No.: JdVVNL / CCOA/CAO (B&amp;R)/AO (Budget)/F.

/ D. 1811

Date. 13/2/2020

**GST CIRCULAR**

**Sub:- Applicability of GST under RCM on the service of renting of Motor Vehicle designed to carry out passenger where the cost of fuel is included in the consideration charged by the service provider w.e.f. 01-10-2019.**

As per the Notification No. 22/2019 Central Tax (Rate) dated 30-09-2019 and 29/2019- Central Tax (Rate) dated 31-12-2019 read with Circular No. 130/49/2019-GST dated 31-12-2019 (Copy E- Mailed), **Services 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 by any person other than a body corporate and does not issue an invoice charging GST @ 12%, is subject to GST under RCM @5%.**

The GST applicability on the Motor Vehicle hiring service received by JDVVNL (a body corporate) where the cost of fuel is included in the consideration charged from JDVVNL, are summarized as below:-

Category of Supply of Services	Supplier of Service	Action to be taken for GST
Service 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, registered in GST and charging, GST @12% (6% CGST+6% SGST/12% IGST)	<b>GST to be paid by Supplier under forward charge basis after charging such GST in the invoice raised on JDVVNL.</b>
	Any person other than a body Corporate*, registered in GST and charging GST @5% (2.5% CGST+25% SGST/5% IGST)	<b>GST to be paid by JDVVNL to Govt. @ 5% under Reverse Charge Mechanism.</b>
	Any person (other than a body corporate*) unregistered in GST	GST to paid by JDVVNL to Govt. @5% under Reverse Charge Mechanism.

\*Definition of a Body Corporate as per Section 2(11) of the Companies Act 2013 "body corporate" or "corporation" includes a company incorporated outside India, but does not include—

- (i) a co-operative society registered under any law relating to co-operative societies; and
- (ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf;

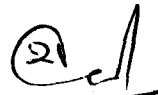
**In case of Service Provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is not included in the consideration charged from the service recipient (JDVVNL), there is no liability of JDVVNL to pay GST under Reverse Charge Mechanism.**

**Time of Supply under RCM:-**

Section 13 (Time of Supply of Service) CGST Act, 2017 provides that:-


- (3) In case of supplies in respect of which tax is paid or liable to be paid on reverse Charge basis, the time of supply shall be the earlier of the following dates, namely:-
- (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
- (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:

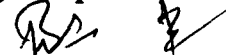
Provided that where it is not possible to determine the time of supply under Clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:

  
13/12/2020  
**Chief Controller of Accounts**  
**Jodhpur Discom, Jodhpur**

Copy to the following for information & necessary action:-

1. The Zonal Chief Engineer ( ), Jodhpur Discom, .....
2. The Superintending Engineer ( ), Jodhpur Discom, .....
3. The TA to Managing Director, Jodhpur Discom, Jodhpur.
4. The TA to Director (Tech.), Jodhpur Discom, Jodhpur.
5. The PS to Director (Finance), Jodhpur Discom, Jodhpur.
6. Sr. Accounts Officer ( ), Jodhpur Discom, .....
7. The Accounts Officer ( ), Jodhpur Discom, .....

  
13/12/2020  
**Chief Controller of Accounts**  
**Jodhpur Discom, Jodhpur**



[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 31<sup>st</sup> 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 28<sup>th</sup> 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 28<sup>th</sup> 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 28<sup>th</sup> June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 692 (E), dated the 28<sup>th</sup> June, 2017 and was last amended by notification No. 22/2019 - Central Tax (Rate), dated the 30<sup>th</sup> September, 2019 *vide* number G.S.R. 737(E), dated the 30<sup>th</sup> 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 31/12, 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 37<sup>th</sup> 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 28.6.17 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% 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 31.12.2019 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.

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

Yours Faithfully,

(Rachna)  
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Tel: 011 2309 5558