

Prasar Bharati
(India's Public Service Broadcaster)
Directorate General: Doordarshan
Doordarshan Bhawan
New Delhi
(Budget Section)

No. G-28012/ 10 /2018-BI/1968

Dated: 16th January, 2020

Subject:- 18% GST Penalty due to creation of liability beyond the allocated SBG under Sub head MV -reg.

Reference is invited to Ministry of Finance's circular No. 130/49/2019-GST, dated 31st December, 2019 and Circular No.-19 of Prasar Bharati on the above subject. (copy enclosed)

In this regard, as per above circulars, the Reverse Charge Mechanism (RCM) provisions requiring the body corporate (recipient of service) to **discharge** GST will apply in the following conditions:-

- i) The service provider/cab operator is non-body corporate person i.e. a proprietorship concern, HUF or partnership firm.
- ii) The cab operator is unregistered or at the best charging 5% GST in the bill without availing ITC.
- iii) The service recipient is a body corporate i.e. a company including private limited company or corporation set under separate statute.

The RCM provisions are not applicable, if cab operator/service provider is a body corporate or the service provider is paying 12% GST with or without availing ITC.

The above amendment has come into force from 01.10.2019.

In view of the above, the GST has to be deposited on time by the recipient of the services and if the GST amount is not deposited in time (that is earlier date of payment or immediately 60 days after the date of invoice), a penalty of 18% on the GST amount has to be paid under section 50 of CGST Act, 2017 due to delay payment of GST.

Hence, it is requested to avoid creation of liability beyond the allocated SBG under sub head Motor Vehicle and remain within the allocated budget.

All the DD Field Units may please take note of these guidelines for strict compliance and deposit GST within due date to avoid penalty.

This is issued with the approval of ADG (F).

Encl.: As above.


(R.S. Chouhan)
Dy. Director Admn.(F)

- 1) **All Zonal Additional Director General(E)(P), Doordarshan**
- 2) **HOO/DDOs of Doordarshan Field Units.**

Copy to:-

- 1) DDG (F), Prasar Bharati Sectt. New Delhi.
- 2) PPS to ADG(F)/DDG(F)/DDA(F), DG:DD New Delhi

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.

Circular No. 130/49/2019- GST

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
Email: Rachna.irs@gov.in
Tel: 011 2309 5558

Circular No – 19 of Prasar Bharati

RCM on Rent a Cab under GST

The services of renting of motor vehicle from non-body corporate entity to body corporate entity is brought under reverse charge mechanism (RCM),

1. The Govt. has issued **notification No. 22/2019-CT(R) dated 30.09.2019** to amend the parent RCM **notification No. 13/2017-CT (R) dated 28.06.2017** issued under section 9(3) of CGST Act, 2017. Under the parent notification, specified services such as services of GTA, Advocates, sponsorship services, services provided by the Govt./ local authority, security services supplied by non-body corporate person, services provided by a person located in a non-taxable territory to any person located in the taxable territory etc. are already subjected to RCM provisions under GST law.

The Govt. has now enlarged this list to cover rent-a-cab services provided by individuals, partnership firms etc. to body corporate. **The amendment has come into force from 01.10.2019.**

2. The RCM provisions requiring the **body corporate (recipient of service)** to discharge GST will apply in the following conditions:-

(a) The service provider/cab operator is a non-body corporate person i.e. a proprietorship concern, HUF or partnership firm.

(b) The cab operator is unregistered or at the best charging 5% GST in the bill without availing ITC.

(c) The service recipient is a body corporate i.e. a company including private limited company or corporation set under separate statute.

In case all the above 3 conditions are fulfilled, GST will be paid by the service recipient (body corporate) on their own under RCM.

3. The RCM provisions are not applicable in the following situations:-

- (a) The cab operator/ service provider is a body corporate; or
- (b) The cab operator/ service provider is paying 12% GST (normal rate under HSN Code 9964) with or without availing ITC; or
- (c) The service recipient is not a body corporate i.e. it is a proprietorship or partnership firm.

We advise you to make a note of above special provisions and start complying with the same. In case you have any query in this matter, you may write to us for our clarification.