

Ref-April/GST/03

Date: 16/04/2019

To,  
GST Cell  
Office of PFA, HQ  
G.M. Building  
West Central Railway  
Jabalpur (MP)

Subject: GST on arrears of License Fee recoverable from vendors related to FY 2008-2018 .

Ref :- RBA 93/2017 , GST Circular No.36 dated 14<sup>th</sup> July, 2017

Ref :- WCR/HQ/GST/Cell Dated 15.04.2019

Sir,

→ As per Rule 3 of POT 2011, 'point of taxation' shall be,-

(a) The time when the invoice for the service provided or agreed to be provided is issued:

Provided that where the invoice is not issued within the time period (30 days from completion of service) specified in rule 4A of the Service Tax Rules, 1994 the point of taxation shall be the date of completion of provision of the service.

(b) in a case, where the person providing the service, receives a payment before the time specified in clause (a), the time, when he receives such payment, to the extent of such payment.

As per Rule 3 of POT, *in case of continuous supply of service where the provision of the whole or part of the service is determined periodically on the completion of an event in terms of a contract, which requires the receiver of service to make any payment to service provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of provision of service.*

→ As per Rule 2A of Point Of Taxation(POT) Rule , 2011 "Date of Payment" shall be earlier of the following date :-

1. Date of payment entered in the books of accounts.
2. Date of payment credited in the bank account.

→ As per the description provided to us Licensing of book stalls, can be considered as continuous supply of service, as the same have been provided for a long time more than specified time under the provision of Finance Act 1994.

→ For the period of service falling after the appointed date of GST i.e. 01/07/2017, In accordance with the provisions of Section 142(10) of CGST act 2017, GST shall be levied on such services supplied after the appointed day in pursuance of an agreement entered into prior to the appointed day.

→ Further, as per section 15 of CGST 2017, value of supply shall include interest and penalty for delayed payment of any consideration related to supply. Hence GST shall be leviable on the interest on delayed payment.

→ GST rate on License Fee shall be 18% and vide Notification No. 3/2018- Central Tax (Rate) dated 25th January 2018. Such services supplied by the Central Government by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017, falls under reverse charge mechanism

and GST on such renting services shall be payable by the such registered person under reverse charge mechanism w.e.f 25th January 2018.

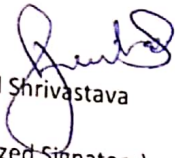
→On the basis of explanation provided to us by the concerned officials of Commercial department, it is presumed that Railways was eligible for 12% of amount of turnover as the license fee against the 5% which was being offered by contractor, but it was informed to us that matter was sub judice before the court of law.

However, it may be noted here that if the transactions with the contractor have been duly taxed in accordance to the full amount receivable to the Railways, i.e full amount @12% license fee have been taxed under the previous regime , GST shall not be leviable on such transaction.

Further if the transaction has not been taxed on full amount, i.e. @12% license fee, then GST may be levied on the amount to be recovered as per section 142(11) (b) of CGST Act, 2017.

For , Rahul & Co.

Chartered Accountants

  
Dhawal Shrivastava

(Authorized Signatory)

पश्चिम मध्य रेल  
West Central Railway



महाप्रबंधक कार्यालय  
General Manager's Office  
वाणिज्य विभाग, जबलपुर  
Commercial Deptt., JBP  
Date: 15.04.2019


No. WCR/HQ/C/GST Cell

Dy. FA & CAO (G)  
HQ/WCR/JBP

**Sub:- Interpretation & Realisation of GST (Goods & Service Tax) on  
Catering License Fee and interest.  
Ref:- RBA No. 93/2017 dated 14.07.2017**

M/s A H Wheelers was depositing 5% as license fee on sales turnover since year 2008 for licensed book stalls, whereas Railway Board, in 2017 has mandated for 12% as license fee with interest on sales turnover to be recovered from 01.01.2008, so arrears for the period from 2008 to 2018 with @ 18% interest (compounded annually) have to be recovered from the party. So following issues may please be clarified:-

- (1) Is GST applicable on license fee of book stall at station premises?
- (2) Will GST apply to principal amount of arrears of license fee? Which is to be paid as on date?
- (3) Will GST apply to the interest component of arrears?
- (4) If GST admissible on point no. 1, 2 & 3, then at what rate?

  
(Vivek Kumar)  
Dy. CCM (PS)