



Clarification to the queries of Members of Indian Corrugated Box Manufacturers Association, Mumbai on GST dated 24.07.2017

To	Members of Indian Corrugated Box Manufacturers Association, Mumbai
From	Rohit Kumar Singh, Dipak Tiwary - Karvy Data Management Services Ltd.
Date	July 24, 2017
Subject	Impact of GST on corrugated box industry

Query 2: From Mr Thapa, OJI India Packaging Pvt. Ltd.:

- a) Refer Section 16 of CGST Act. What is the criteria to check whether supply of goods/services is in the course or “furtherance of business”?**
- b) Can we avail Input Credit on GST paid or Reverse Charge Mechanism (RCM) paid on rent for the residential accommodation provided to employees in residential area or hotel?**
- c) Do we need to submit cancelled invoices to tax department like we were submitting earlier to excise department? If yes, where to submit?**
- d) What happens if the supplier mentions wrong HSN/SAC or/and charges wrong GST in his invoice? Any liability on recipient of goods/services?**
- e) Is RCM payable when supply is not for “furtherance of business”?**

Answer: Below mentioned are the answer to your queries:

- a. *["Business" is defined under Section 2(17) include any trade, commerce, manufacture, profession, vocation etc. whether or not undertaken for a pecuniary benefit. Business also includes any activity or transaction which is incidental or ancillary to the aforementioned listed activities. In addition, any activity undertaken by the Central Govt. or a State Govt. or any local authority in which they are engaged as public authority shall also be construed as business. From the above, it may be noted that any activity undertaken included in the definition for furtherance or promoting of a business could constitute a supply under GST law.]*

The above mentioned clarification was provided by CBEC in its FAQ document on GST under question no. 9 “What do you mean by supply made in the course or furtherance of business?”

- b. Input service has been defined in section 2 (60) CGST Act 2017 as “any service used or intended to be used by a supplier in course or furtherance of business”

Restriction has been provided in section 17 (5) (g) of CGST Act 2017 to avail input tax credit when goods or services or both have been used for personal use or consumption.

Here an interpretation is being made that the word “personal consumption” is referred to such goods and services which have been used by the supplier exclusively for non-business purpose.

In your case where services has been availed by a registered person by way of hotel accommodation facility for an employee on business trip may qualify as an input service to have been received and used in the course of business and tax paid on such input services shall be available as Input tax credit.

- c. We don't see any such provision in CGST Act 2017, wherein a registered person is required to submit a copy of cancelled invoice with the jurisdictional officer physically. However, count of cancelled invoices in a month has to be disclosed in Form GSTR-1 under table 13.
- d. The recipient of goods and services must validate the HSN / SAC code of goods and services received along with applicable levy of tax rate before accounting the same in his books. Availing wrong input tax credit by a recipient even on account of wrong tax to have been levied by a supplier for a particular product / service may attract penal provision under section 73 & 74 of CGST Act 2017. (Refer section 65 (7) of CGST Act 2017)
- e. Primarily one has to see whether a transaction qualifies to be called as supply as per CGST Act 2017 before any levy or payment of tax under GST is considered. Section 7 of CGST Act 2017 clearly narrates that Supply is transaction made for consideration by a person in the course or furtherance of business.

Hence, in your case, where a registered person is in receipt of goods or services for a consideration we assume, but the same is not used in the course or furtherance of business shall not qualify as a supply under GST regime. Hence, when a transaction does not qualify to be a supply, provision of section 9(4) of CGST Act 2017 which attracts payment of tax under reverse mechanism charge shall not be applicable.