

Major issues of Composition dealer

<u>Issues</u>	<u>Discussion</u>
A. Can a composition taxpayer supply exempted goods/services	<p>B. Provisions related to exempted supply under section 10 and rules thereunder</p> <ul style="list-style-type: none"> - <u>Explanation-1 & 2 of Sec 10(5) only talks about the exempted supply of Service not Goods:</u> “exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount”. - The above only exempted supply of service will not be considered as part of <u>“aggregate turnover”</u> and <u>“turnover in State or turnover in Union territory”</u>. <p>C. <u>Removal of difficulties order 01/2019 dt 01.02.2019 supersede over 01/2017 dt 13.10.2017</u></p> <p>For the removal of difficulties, it is hereby clarified that the value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, <u>shall not be taken into account –</u></p> <p>(i) for determining the <u>eligibility for composition scheme</u> under second proviso to sub-section (1) of section 10;</p> <p>(ii) in computing <u>aggregate turnover</u> in order to determine <u>eligibility for composition scheme.</u></p> <p>D. <u>Section 10(2)(b) says</u> “he is not engaged in making any supply of goods which are not leviable to tax under this Act;”</p> <ul style="list-style-type: none"> - <u>So here we can say exempted supply covers.</u> <ol style="list-style-type: none"> i) Nil rate of tax ii) Wholly exempt u/s 11 of CGST Act and u/s 6 of IGST Act iii) Include Non-taxable supply <p><i>If we go through the definition exempted supply cover non-taxable supply whereas non taxable supply don't cover exempted supply.</i></p> <p><u>Conclusion: following supply is part of “aggregate turnover” and “turnover in State or turnover in Union territory”</u></p> <ul style="list-style-type: none"> - <u>Taxable supply of goods- yes</u> - <u>Exempted Supply of goods- yes</u> - <u>Exempted supply (Nil + Wholly exempted) of services- yes except interest or discount on extended deposit or advance</u> - <u>Non- taxable supplier – can't take registration u/s 10.</u> <p><i>So here we can say composition taxpayer can supply exempted.</i></p>

<p>B. If a composition taxpayer supply exempted Goods/services, whether he has to pay GST on exempted supply also.</p>	<p>Section 10 (1) (a),(b) & (c) r.w Rule-7 which talks about the rate of tax</p> <table border="1" data-bbox="774 309 1390 887"> <tr> <td data-bbox="774 309 1082 488">a) Manufacturer (Not qualified- ICE Cream, Pan Masala,</td> <td data-bbox="1082 309 1390 488">$\frac{1}{2}$% of the T.O(<i>T.O means taxable plus exempted supply</i>) in the State or Union territory</td> </tr> <tr> <td data-bbox="774 488 1082 633">b) Restaurant/outdoor caterer</td> <td data-bbox="1082 488 1390 633">2 & 1/2 % of the T.O (<i>T.O means taxable plus exempted</i>) in the State or Union territory</td> </tr> <tr> <td data-bbox="774 633 1082 887">c) Any other supplier</td> <td data-bbox="1082 633 1390 887">$\frac{1}{2}$% of the T.O of taxable supplies (<i>Taxable supply does not include exempted supply</i>) of goods and services in the State or Union territory</td> </tr> </table> <p><i>Services must be subject to below threshold limit</i></p> <p>Second proviso of section 10(1): Provided further that a person who opts to pay tax u/s 10(1) clause (a) or clause (b) or clause (c) <i>may supply services</i> (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value <i>not exceeding ten per cent. of turnover</i> in a State or Union territory <i>in the preceding financial year or five lakh rupees, whichever is higher.</i></p> <p>- <i>So here we can say composition taxpayer is liable to pay tax on exempted supply by (a) and (b) as above .</i></p>	a) Manufacturer (Not qualified- ICE Cream, Pan Masala,	$\frac{1}{2}$ % of the T.O(<i>T.O means taxable plus exempted supply</i>) in the State or Union territory	b) Restaurant/outdoor caterer	2 & 1/2 % of the T.O (<i>T.O means taxable plus exempted</i>) in the State or Union territory	c) Any other supplier	$\frac{1}{2}$ % of the T.O of taxable supplies (<i>Taxable supply does not include exempted supply</i>) of goods and services in the State or Union territory
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<p>C. Whether Composition tax payer paid tax under RCM is eligible to avail input tax of those tax paid under RCM</p>	<p>Not entitled to claim credit of taxes paid by composition taxpayer: The composition taxpayer is not entitled to claim credit in respect of taxes paid by him on any of the inward supplies effected by him,</p> <ul style="list-style-type: none"> - including inward supplies on which he pays tax under RCM. - <i>So here we can say that input tax credit is not allowed to composition taxpayer at all.</i> 						
<p>D. When a person registered in the middle of year and Turnover before eligible for registration under this act, whether he is also liable to pay tax on that turnover before eligible for registration.</p>	<p>Explanation 2 of section 10(5) said.—For the purposes of determining the tax payable by a person under this section, the expression <i>“turnover in State or turnover in Union territory” shall not include the value of following supplies,</i> namely:—</p> <p>(i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and</p> <p>(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.</p> <p>- <i>So here we can say the turnover till eligible for registration is not liable for tax under GST.</i></p>						