

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA-700015**

**TRADE CIRCULAR NO. 15/2017
DATED: 21.12.2017**

Subject: Clarification on issues regarding treatment of supply by an artist in various States and supply of goods by artists from galleries.

Various representations have been received regarding taxation of the supply of art works by artists in different States other than the State in which they are registered as a taxable person. In such cases, if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply. It has been represented that the artists give their work of art to galleries where it is exhibited for supply. There seems to be confusion regarding the treatment of this activity whether it is taxable in the hands of the artist when the same is given to the art gallery or at the time of actual supply by the gallery. Therefore, in exercise of the powers conferred under section 168(1) of the West Bengal Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter.

2. It is seen that clause (c) of sub-rule (1) of rule 55 of the West Bengal Goods and Services Tax Rules, 2017 (hereafter referred as “the said Rules”) provides that the supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply. Further, sub-rule (3) of the said rule provides that the said delivery challan shall be declared as specified in rule 138 of the said Rules. It is also seen that sub-rule (4) of rule 55 of the said Rules provides that where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.
3. A combined reading of the above provisions indicates that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work.
4. It is also clarified that the supplies of the art work from one State to another State will be inter-State supplies and attract integrated tax in terms of section 5 of the Integrated Goods and Services Tax Act, 2017.
5. It is further clarified that in case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

6. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Commissioner.

Sd/-
(Smaraki Mahapatra)
Commissioner,
State Tax, West Bengal

Memo. No. 990 CT/PRO
3C/PRO/2015

Date: 21.12.2017

Copy forwarded to the Senior Joint Commissioner, Commercial Taxes/ ISD for information and for uploading it on the official website and internal website of the Directorate for information of all concerned.

Sd/-
(Adesh Kumar)
Addl.CST & PRO