



**THE INSTITUTE OF  
Company Secretaries of India**  
**भारतीय कम्पनी सचिव संस्थान**  
**IN PURSUIT OF PROFESSIONAL EXCELLENCE**  
Statutory body under an Act of Parliament  
(Under the jurisdiction of Ministry of Corporate Affairs)

# **SUPPLEMENT**

## **EXECUTIVE PROGRAMME (N/S)**

***For June, 2025 Examination***

**TAX LAWS AND PRACTICE**

**PART II - INDIRECT TAX (GST & Customs)**

***[Supplement covers amendments/developments from June, 2023 to Nov, 2024]***

**Group 2 - Paper 7**

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**PART II- INDIRECT TAX (GST & CUSTOMS)**

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***Note: Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBIC on or before 30<sup>th</sup> November, 2024 pertaining to GST and Customs Act, 1962.***

## Lesson 15 - Basics of Goods and Service Tax “GST”

### 1. Notification regarding insertion and substitution in certain items in Schedule I, II & III (Notification no. 03/2023- Central Tax (Rate) New Delhi, dated the February 28, 2023)

The Central Government, on the recommendations of the Council, hereby makes the further amendments in the notification No.1/2017-Central Tax (Rate), regarding substitution of Jaggery of all types like certain items in Schedule I, and in Schedule II a new-entries inserted namely Pencil sharpeners & in Schedule III the word “other than pencil sharpeners” is inserted. This notification shall come into force on the 1st day of March, 2023.

#### Brief Analysis

In this notification the Central Government, hereby makes the further amendments in the notification No.1/2017-Central Tax (Rate), regarding substitution of Jaggery of all types by: -“Jaggery of all types including Cane Jaggery(gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled; Rab, pre-packaged and labelled”; like certain items in Schedule I- 2.5%, against S. No. 91A, in column (3), and in Schedule II –6%, after S. No. 186 and entries relating Pencil sharpeners” and in Schedule III –9%, against S. No. 302A, in column (3), at the end, the brackets and words “[other than pencil sharpeners]” shall be inserted.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009644/ENG/Notifications>

### 2. Notification for further amendments in the notifications of the Government of India, Ministry of Finance (Department of Revenue), No. 2/2017-Central Tax (Rate) and No. 2/2017- Union Territory (Rate) and No. 2/2017- Integrated Tax (Rate).

**[Notification No. 04/2023- Central Tax (Rate), Integrated Tax (Rate), and Union Territory (Rate), February 28, 2023]**

The Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No.2/2017-Central Tax (Rate), No.2/2017-Integrated Tax (Rate) and No.2/2017-Union Territory (Rate), dated the June, 28th, 2017. In the said notifications, in the Schedule, against S. No.94, in Column (3), after the item (ii) and the entries relating thereto, the following item and entry shall be inserted, namely: -“(iii) Rab, other than pre-packaged and labelled”. The said Notifications came into force from March 01, 2023.

#### Brief Analysis

In this notification the Central Government, hereby makes the further amendments in the notification of the Government of India, by inserting item no (iii) i.e. “Rab, other than pre-packaged and labelled” in the Schedule, against S. No.94, in Column (3), after the item (ii) and the entries relating thereto.

**For further details please visit:**

<https://taxinformation.cbic.gov.in/view-pdf/1009645/ENG/Notifications>

<https://taxinformation.cbic.gov.in/view-pdf/1009649/ENG/Notifications>

<https://taxinformation.cbic.gov.in/view-pdf/1009653/ENG/Notifications>

### 3. Notification for Amendment in Compensation Cess

**(Notification No.1/ 2023-Compensation Cess (Rate), New Delhi, the February 28, 2023)**

The Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 1/2017-Compensation Cess (Rate), dated the 28th June, 2017 published in the Gazette of India. In the said notification, in the Schedule, against Sl. No. 41A, in column (3), for the entry, the following entry shall be substituted, namely: - “Coal rejects supplied to a coal washery or by a coal washery, arising out of coal on which compensation cess has been paid and input tax credit thereof has not been availed by any person”. The said Notifications came into force from March 01, 2023.

#### **Brief Analysis**

In this notification the Compensation Cess on Coal rejects supplied to a coal washery or by a coal washery, arising out of coal is amended.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009654/ENG/Notification>

### 4. Taxability of ESOP, ESPP, or RSU provided by a company to its employees through its overseas holding company (Circular No. 213 Dated June 26, 2024)

The circular clarifies that GST is not leviable on the allotment of securities or shares by the foreign holding company to the employees of the domestic subsidiary company on the following grounds:

- The transaction is neither a supply of goods nor a supply of services as it is undertaken as part of the compensation package for the enhanced performance of employees and their retention; this is covered under Entry 1 of Schedule III of the CGST Act.
- Shares are securities, which are excluded from the definition of goods as well as services.

It also clarifies that GST is not leviable on the reimbursement made on a cost-to-cost basis by the domestic subsidiary company to the foreign holding company for such transfer of securities or shares.

However, the circular caveats that if the foreign holding company charges any additional fee, markup, or commission from the domestic subsidiary company for issuing ESOP, ESPP or RSU provided by a company to its employees through its overseas holding company, then GST would be leviable on such amount as consideration for the supply of services of facilitating or arranging the transaction in securities or shares by the foreign holding company to the domestic subsidiary company. GST will be payable by the domestic subsidiary company on reverse charge basis on such import of services from the foreign holding company.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003208/ENG/Circulars>

### 5. Clarification on the taxability of salvage or wreckage value earmarked in the claim assessment of the damage caused to the motor vehicle (Circular No. 215 Dated June 26, 2024)

The circular provides clarification for the below scenarios:

**Deduction of salvage or wreckage:**

- When the insurance contract specifies that the insurer's liability is limited to the Insured's Declared Value (IDV) minus the salvage value, the ownership of the salvage remains with the insured even when insurance companies may assist in obtaining competitive quotes for the salvage.
- The deduction of salvage value cannot be said to be a consideration for any supply being made by the insurance company and hence there is no GST liability for the insurance company on this salvage value.

**Full IDV Settlement:**

- In cases where the insurance contract provides for settlement of the full IDV without deducting the salvage value, the salvage becomes the property of the insurance company once the claim is settled.
- The insurance company must then handle or dispose of the salvage and discharge GST liability on the disposal or sale of the salvage.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003206/ENG/Circulars>

**6. Under warranty replacements and extended warranties (Circular No. 216 Dated June 26, 2024)**

Circular dated 17 July 2023<sup>4</sup> had clarified that if the manufacturer replaces any parts free of cost during the warranty period, they are neither liable to pay any GST thereon, nor any ITC availed on such parts needs to be reversed. The present circular is further clarifying the following –

- The clarification via the previous circular<sup>4</sup> will be equally applicable, even when the entire goods are supplied or replaced completely (instead of only parts) during warranty.
- If the distributor replaces the parts or goods during warranty, from his own stock on the behalf of the manufacturer and gets replenishment of the same from the manufacturer, the same treatment will apply, i.e. the manufacturer is neither liable to charge any GST nor liable to reverse any ITC.
- If extended warranty against payment is provided by the supplier of the goods itself at the time of original supply, it will be a composite supply, but if the supplier of goods (dealer or distributor) and the supplier of extended warranty (manufacturer) are different, the supply of extended warranty would be a distinct supply of service and the supplier of extended warranty will be liable to discharge GST.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003205/ENG/Circulars>

**7. Taxability of the transaction of providing a loan by an overseas affiliate to its Indian affiliate or a person to a related person (Circular No. 218 Dated June 26, 2024)**

Interest or discount charged on loan amounts is exempt from GST under S. No. 27(a) of Notification dated 28 June 2017. When no consideration is charged for processing, administering or facilitating a loan, processing fees, which are generally non-refundable cover the administrative costs. For related entities, credit assessment may not be necessary, and the administrative costs may be absent, distinguishing these services from those provided by banks or independent lenders. Even between unrelated parties, administrative charges might be waived based on the relationship. Therefore, no service or supply exists between related persons for processing, administering or facilitating loans, and no GST is applicable as per section 7(1)(c) read with Schedule I of the CGST Act.

However, when a fee is charged for processing, administering or facilitating a loan, it qualifies as consideration for the supply of services and is subject to GST.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003203/ENG/Circulars>

## 8. Clarifications regarding applicability of GST on Services (Circular No. 228 Dated July 15, 2024)

Circular to provide clarifications on GST applicability and address operational challenges faced by the Ministry of Railways, real estate regulators, digital payment facilitators, and the insurance sector. It also retrospectively regularizes GST liabilities in several cases to ensure past compliance issues.

### Clarifications:

**GST Exemption for Railways:** The GST Council recognized difficulties faced by the Ministry and has now exempted specific services provided by Indian Railways to the public, such as: (a) Sale of platform tickets (b) Retiring rooms (c) Cloakroom services (d) Battery-operated car services. Exemptions also apply to services exchanged between various zones/divisions within Indian Railways (vide Notification No. 04/2024-Central Tax (Rate) w.e.f. 15.07.2024). The exemption is regularized retrospectively for the period from 20.10.2023 to 14.07.2024.

**GST Exemption on Transactions Between SPVs and Ministry of Railways:** Earlier, 48th GST Council meeting had clarified that services provided by SPVs to Indian Railways and maintenance services by Indian Railways to SPVs were taxable. Now, by 53rd GST Council Meeting, Council now exempts these transactions from GST (vide Notification No. 04/2024-Central Tax (Rate) w.e.f. 15.07.2024). This exemption is also regularized for the period from 01.07.2017 to 14.07.2024.

**GST on Statutory Collections by RERA:** Statutory collections made by RERA, as a governmental authority, fall under Entry No. 4 of notification No. 12/2017-CT(R) dated 28.06.2017, and are thus exempt from GST.

**GST on Incentives in Digital Payment Ecosystem:** Incentives paid by MeitY to acquiring banks for promoting RuPay Debit Cards and BHIM-UPI transactions were previously clarified as non-taxable. Now, it is clarified that "Further sharing of these incentive amount by the acquiring banks with other stakeholders (issuer banks, Payer PSPs, UPI apps, and TPAPs), upto the point where the incentive is distributed in the proportion and manner as decided by NPCI in consultation with the participating banks under the Notified Incentive Scheme is considered a subsidy and thus, non-taxable.

**GST on Reinsurance of Specified General and Life Insurance Schemes:** GST liability on reinsurance for certain exempt general insurance and life insurance schemes from 01.07.2017 to 24.01.2018 is regularized on an 'as is where is' basis.

**GST on Reinsurance of Government-Sponsored Insurance Schemes:** Reinsurance of insurance schemes fully paid by the government is exempt from GST under Serial No. 40 of NN. 12/20217 -Central Tax (Rate), now it is clarified that the liability from 01.07.2017 to 26.07.2018 is regularized on an 'as is where is' basis.

**GST on Retrocession Services:** Retrocession, a reinsurance transaction where part of the reinsured risk is further ceded to another insurer or cross-border reinsurer, is included under the term 'reinsurance' as per Sl. No. 36A of notification No. 12/2017-CT(R) dated 28.06.2017, and is thus treated similarly for GST purposes. Now, it is clarified that term 'Reinsurance' as mentioned in Serial No. 36A of NN. 12/2017 -CT(Rate) includes 'Retrocession' services.

**GST on Certain Accommodation Services:** Accommodation services valued at or below ₹20,000 per person per month for a continuous period of at least 90 days are exempt from GST, effective from 15.07.2024. (vide

Notification No. 04/2024-Central Tax (Rate) w.e.f. 15.07.2024). It is now clarified that the Past transactions meeting these criteria from 01.07.2017 to 14.07.2024 are also regularized on an 'as is where is' basis.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003223/ENG/Circulars>

## 9. Clarifications regarding applicability of GST rates on Goods – (Circular No. 229 Dated 15<sup>th</sup> July, 2024)

Circular to provide clarifications on GST rate applicability on specified goods. It also retrospectively regularizes GST liabilities in several cases to ensure past compliance issues.

### Clarifications:

- I. **GST rate on Solar Cookers:** It is clarified that solar cookers that work on dual energy of solar energy and grid electricity are appropriately classifiable under heading 8516 and already attract a GST rate of 12% vide SI. No. 201A of Schedule II of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017.
- II. **GST rate on Fire Water Sprinklers:** It is hereby clarified that all types of sprinklers, including fire water sprinklers attract GST at the rate of 12% vide SI. No. 195 B of Schedule II of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017. The issues for the past period are regularized on "as is where is basis".
- III. **GST rate on parts of Poultry-keeping machinery:** The relevant entry at SL 199 of Schedule II of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017, has been amended vide notification No. 2/2024-Central Tax (Rate), dated the 12th July, 2024 to specifically include 'parts' of Poultry-keeping machinery. The issues for the past period are regularized on "as is where is basis".
- IV. **Scope of expression 'pre-packaged and labelled' for supply of agricultural farm produce:** The definition of 'pre-packaged and labelled' has been amended as provided under Goods Exemption Notification and Goods Rate Notification, to exclude the supply of agricultural farm produce in package(s) of commodities containing quantity of more than 25 kilogram or 25 litre from the scope of 'pre-packaged and labelled'. Consequently, supply of agricultural farm produce in package (s) containing quantity of more than 25 kilogram or 25 litre will not attract GST levy of 5%. The issues for the past period are hereby regularized on "as is where is".
- V. **Supplies of goods made to or by agency engaged by Government:** The issues for the past period from 01.07.2017 up to 17.07.2022 are hereby regularized on "as is where is" basis for supplies made to or by any agency engaged by Union Government or State Government/Union Territory for procurement and sale of such goods under any programme/scheme duly approved by the Central Government or any State Government intended to distribute such goods at free of cost or at subsidized rate to the eligible beneficiaries like economically weaker sections of the society. These are subject to certain conditions as prescribed.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003224/ENG/Circulars>

## Lesson 16 – Levy and Collection of GST

### 1. Clarifications regarding applicability of GST on certain services

(Circular No. 201/13/2023 - GST No. 201/13/2023- August 01, 2023)

GST Council in the 50th meeting held on July 11, 2023 clarified the following issues:

**a) Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge Mechanism (RCM):** It is hereby clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017.

**b) Whether supply of food or beverages in cinema hall is taxable as restaurant service:** It is hereby clarified that supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

- a) The food or beverages are supplied by way of or as part of a service, and
- b) Supplied independent of the cinema exhibition service.

It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

#### Brief Analysis

In this circular clarification regarding services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge Mechanism (RCM) and supply of food or beverages in cinema hall is taxable as restaurant service has been issued.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1003175/ENG/Circulars>

### 2. CBIC amends to exclude specified actionable claims [Notification No. 50/2023 – Central Tax Dated: 29th September, 2023]

Notification No. 50/2023-Central Tax introduces a significant change to the existing tax framework. It specifies that with effect from the 1st October, 2023, a specific exclusion shall be made within Notification No. 66/2017-Central Tax. The exclusion pertains to registered persons who are engaged in the supply of specified actionable claims, as defined in clause (102A) of section 2 of the CGST Act, 2017.

This exclusion signifies that registered person dealing with specified actionable claims, which have been distinctly defined, will not be eligible for the composition levy under section 10 of the CGST Act. This amendment narrows the scope of individuals and businesses that can benefit from the composition levy, excluding those involved in the specified actionable claims category.

<https://taxinformation.cbic.gov.in/view-pdf/1009872/ENG/Notifications>



**3. Amendments in the list of notified services on which tax is payable under reverse charge by the recipient [Notification No. 14/2023 CT(R) dated 19.10.2023 and Notification No. 17/2023 IT(R) dated 19.10.2023]**

Notification No. 13/2017 CT (R) dated 28.06.2017 as amended has notified specified categories of intra-State supply of services wherein whole of the tax shall be paid on reverse charge basis by the recipient of services. With effect from 20.10.2023, the said list of services, tax on which is payable under reverse charge has been amended as follows:

<b>S. No.</b>	<b>Category of supply of service</b>	<b>Supplier of service</b>	<b>Recipient of Service</b>
<b>5</b>	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) services specified below-  (i) services by the Department of Posts <b>and the Ministry of Railways (Indian Railways)</b> (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory
<b>5A</b>	Services supplied by the Central Government excluding the Ministry of Railways (Indian Railways), State Government, Union territory or local authority by way of renting of immovable property to a person registered under the CGST Act.	Central Government, State Government, Union territory or local authority	Any person registered under the CGST Act.

**4. Tax on passenger transportation services by omnibus except where the person supplying such services through ECO is a company, payable by ECO [Notification No. 16/2023 CT(R) dated 19.10.2023 and Notification No. 19/2023 IT(R) dated 19.10.2023]**

The Government, on the recommendations of the GST Council, notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the electronic commerce operator (ECO) if such services are supplied through it.

Such services shall be notified on the recommendations of the GST Council [Section 9(5) of the CGST Act/Section 5(5) of the IGST Act].

Notification No. 17/2017 CT (R) dated 28.06.2017/ Notification No. 14/2017 IT (R) dated 28.06.2017 as amended has notified the specific categories of services the tax on supplies of which shall be paid by the electronic commerce operator (ECO) if such services are supplied through ECO. One of such notified categories of services is services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, omnibus or any other motor vehicle;

With effect from 20.10.2023, services by way of transportation of passengers by an omnibus has been excluded from the above entry and a separate category of services has been introduced for transportation of passengers by an omnibus. This has been undertaken as follows: Above category of services has been amended as under:

Services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab, motorcycle, or any other motor vehicle except omnibus.

Further, following new category of services has been introduced “Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company”

Thus, with effect from 20.10.2023, the tax on services by way of transportation of passengers by an omnibus provided by a company through ECO is not payable by ECO. It will be payable by the company itself.

**5. Clarification on taxability of shares held in a subsidiary company by holding company [Circular No. 196/08/2023 GST dated 17.07.2023]**

The issue which arose for consideration is whether the holding of shares in a subsidiary company by the holding company will be treated as 'supply of service' and whether the same will attract GST or not.

It is clarified that securities are considered neither as goods nor as services in terms of definition of goods under section 2(52) and the definition of services under section 2(102). Further, securities include 'shares' as per definition of securities.

This implies that the securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services. For a transaction/activity to be treated as supply of services, there must be a supply as defined under section 7. It cannot be said that a service is being provided by the holding company to the subsidiary company, solely on the basis that there is a specific SAC2 entry '997171' in the scheme of classification of services mentioning; "the services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest.", unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7.

Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

**6. Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023 (Circular No. 200/12/2023-GST-August 01, 2023)**

Based on the recommendations of the GST Council in its 50th meeting held on July 11, 2023, clarifications with reference to GST levy related to the following items are being issued:

- A. Un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion; falling under CTH 1905 will attract GST rate of 5%.
- B. Fish Soluble Paste; attracted 18% under the residual entry S No. 453 of Schedule III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017.
- C. Desiccated coconut; falling under CTH 0801, the issue for past period from 01.07.2017 up to and inclusive of 27.07.2017 is hereby regularized on “as is” basis.
- D. Biomass briquettes; falling under any chapter, the issue for past period from 01.07.2017 up to and inclusive of 12.10.2017 is hereby regularized on “as is” basis.
- E. Imitation zari thread or yarn known by any name in trade parlance; that imitation zari thread or yarn known as “Kasab” or by any other name in trade parlance, would attract a uniform GST rate of 12% under tariff heading 5605.
- F. Supply of raw cotton by agriculturist to cooperatives; attracts 5% GST on reverse charge basis; clarification is hereby regularized on “as is basis”.
- G. Plates, cups made from areca leaves; regularized on “as is basis” for the period prior to 01.10.2019.

Goods falling under HSN heading 9021; would attract a GST rate of 5% and in view of prevailing genuine doubts, the issue for the past periods is hereby regularized on “as is basis”. However, it is clarified that no refunds will be granted in cases where GST has already been paid at higher rate of 12%.

### **Brief Analysis**

In this circular clarification regarding GST rates and classification of goods like Un-fried or un-cooked snack pellets, Fish Soluble Paste, Desiccated coconut, Biomass briquettes, Imitation zari thread, raw cotton and Plates, cups made from areca leaves has been issued by the Central Government.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1003174/ENG/Circulars>

### **7. Casinos, horse racing and online gaming excluded from the purview of Schedule III to clarify their taxability [Entry 6 of Schedule III amended]**

Earlier, as per Entry 6 of Schedule III, actionable claims were outside the purview of GST. However, the betting, gambling and lottery were an exception. Thus, only lottery, betting and gambling were treated as supply. All other actionable claims were outside the ambit of definition of supply. In 50th GST Council meeting, the taxability of three other actionable claims namely, online money gaming, casinos, and horse racing and rate and value applicable thereon, were discussed. Thereafter, it was recommended that Entry 6 of Schedule III needs to be amended to clarify the taxability of these actionable claims. Further, the rate applicable on them is 28% and valuation would be prescribed under Valuation Rules.

With effect from 01.10.2023, Entry 6 has been amended by the CGST Amendment Act, 2023.

Earlier Entry 6 provided as follows: “Actionable claims, other than betting, gambling and lottery.”

Amended Entry 6 provides as follows: “Actionable claims, other than specified actionable claims.”

Thus, specified actionable claims qualify as supply. All other actionable claims are outside the ambit of definition of supply.

In order to define the term specified actionable claim, new clause (102A) has been inserted to section 2, which defines this term as follows:

Specified actionable claim means the actionable claim involved in or by way of—

- (i) betting;
- (ii) casinos;
- (iii) gambling;
- (iv) horse racing;
- (v) lottery; or
- (vi) online money gaming;

The terms online money gaming has been defined by the newly inserted clause (80B) to section 2, as follows:

Online money gaming means online gaming in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force.

The terms online gaming and virtual digital asset used in the above definition have been defined by the newly inserted clauses (80A) and (117A) to section 2, as follows:

Online gaming means offering of a game on the internet or an electronic network and includes online money gaming [Section 2(80A)].

Virtual digital asset shall have the same meaning as assigned to it in section 2(47A) of the Income-tax Act, 1961 [Section 2(117A)]

The definition of supplier has been amended to incorporate a proviso which provides that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital/electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of CGST Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims.

The value of horse racing, casinos and online money gaming has been prescribed in the Valuation Rules.

## **8. Clarification on issues pertaining to taxability of personal guarantee and corporate guarantee in GST Circular No.204 Dated October 27, 2023]**

Issue: Whether the activity of providing personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not.

Clarification: As per mandate provided by RBI in terms of Para 2.2.9 (C) of RBI's Circular No. RBI/2021-22/121 dated 9th November, 2021, no consideration by way of commission, brokerage fees or any other

form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits. As such, when no consideration can be paid for the said transaction by the company to the director in any form, directly or indirectly, as per RBI mandate, there is no question of such supply/ transaction having any open market value. Accordingly, the open market value of the said transaction/ supply may be treated as zero and therefore, taxable value of such supply may be treated as zero. In such a scenario, no tax is payable on such supply of service by the director to the company.

**Issue:** Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services.

**Clarification:** Where the corporate guarantee is provided by a company to the bank/financial institutions for providing credit facilities to the other company, where both the companies are related, the activity is to be treated as a supply of service between related parties as per provisions of Schedule I of CGST Act, even when made without any consideration.

Similarly, where the corporate guarantee is provided by a holding company, for its subsidiary company, those two entities also fall under the category of 'related persons'. Hence the activity of providing corporate guarantee by a holding company to the bank/financial institutions for securing credit facilities for its subsidiary company, even when made without any consideration, is also to be treated as a supply of service by holding company to the subsidiary company, being a related person, as per provisions of Schedule I of CGST Act.

In respect of such supply of services by a person to another related person or by a holding company to a subsidiary company, in form of providing corporate guarantee on their behalf to a bank/ financial institution, the taxable value will be determined as per rule 28 of CGST Rules.

**For Details:** <https://taxinformation.cbic.gov.in/view-pdf/1003187/ENG/Circulars>

## 9. Clarifications regarding applicability of GST on certain services

[Circular No. 206 Dated October 31, 2023]

Sr. No.	Issue	Clarification
1.	Whether 'same line of business' in case of passenger transport service and renting of motor vehicles includes leasing of motor vehicles without operators.	Input services in the same line of business include transport of passengers or renting of motor vehicle with operator and not leasing of motor vehicles without operator which attracts GST and / or compensation cess at the same rate as supply of motor vehicles by way of sale.
2.	Whether GST is applicable on reimbursement of electricity charges received by real estate companies, malls, airport operators etc. from their	whenever electricity is being supplied bundled with renting of immovable property and/ or maintenance of premises, as the case may be, it forms a part of composite supply and shall be taxed accordingly. The

	lessees/occupants.	<p>principal supply is renting of immovable property and/or maintenance of premise, as the case may be, and the supply of electricity is an ancillary supply as the case may be. Even if electricity is billed separately, the supplies will constitute a composite supply and therefore, the rate of the principal supply i.e. GST rate on renting of immovable property and/or maintenance of premise, as the case may be, would be applicable.</p> <p>However, where the electricity is supplied by the Real Estate Owners, Resident Welfare Associations (RWAs), Real Estate Developers etc. as a pure agent, it will not form part of value of their supply. Further, where they charge for electricity on actual basis that is, they charge the same amount for electricity from their lessees or occupants as charged by the State Electricity Boards or DISCOMs from them, they will be deemed to be acting as pure agent for this supply.</p>
3.	Whether job work for processing of “Barley” into “Malted Barley” attracts GST@5% as applicable to “job work in relation to food and food products” or 18% as applicable on “job work in relation to manufacture of alcoholic liquor for human consumption”	Job work services in relation to manufacture of malt are covered by the entry at Sl. No. 26 (i) (f) which covers “job work in relation to all food and food products falling under chapters 1 to 22 of the customs tariff” irrespective of the end use of that malt and attracts 5% GST.
4.	Whether District Mineral Foundations Trusts (DMFTs) set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.	DMFT set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003189/ENG/Circulars>

#### **10. Clarification in respect of advertising services provided to foreign clients. [Circular No. 230 Dated September 11, 2024]**

The circular clarifies that Indian advertising agencies that provide comprehensive advertising services to foreign clients are not considered intermediaries under Section 2(13) of the Integrated Goods and Services Tax (IGST) Act, 2017. The services include activities such as media planning, content creation, strategy development, and media space procurement. Since these services are supplied on a principal-to-principal basis, the advertising agencies are not acting as intermediaries but rather provide the main supply of advertising services to the foreign clients. Consequently, the place of supply for these services is determined by the location of the recipient, which is the foreign client outside India, and hence, these services qualify as exports, eligible for related benefits under the GST framework.

<https://taxinformation.cbic.gov.in/view-pdf/1003229/ENG/Circulars>

**11. Clarification on place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India. [Circular No. 232 Dated September 11, 2024]**

Concerns had arisen over whether such services qualify as intermediary services and how the place of supply should be determined under the Integrated Goods and Services Tax (IGST) Act, 2017. The circular clarifies that data hosting service providers in India do not qualify as intermediaries because they provide services on a principal-to-principal basis directly to cloud computing service providers, without interacting with the end users of the cloud services. Consequently, the place of supply cannot be determined under Section 13(8)(b) of the IGST Act, which applies to intermediary services.

The circular further clarifies that data hosting services do not relate to goods “made available” by the cloud computing service providers, nor do they directly relate to immovable property. Therefore, sections 13(3)(a) and 13(4) of the IGST Act, which apply to services related to goods made available and immovable property, respectively, do not apply to data hosting services. Instead, the place of supply should be determined by the default provision in Section 13(2) of the IGST Act, which states that the place of supply is the location of the recipient. As a result, when data hosting services are provided to recipients located outside India, the place of supply is considered outside India, making these services eligible for export benefits under the IGST Act, provided other conditions are met.

<https://taxinformation.cbic.gov.in/view-pdf/1003231/ENG/Circulars>

**12. Notification No. 24/2024-Central Tax: Exclusion for Metal Scrap Suppliers [Dated Oct 9, 2024]**

Ministry of Finance has issued Notification No. 24/2024-Central Tax on October 9, 2024, amending the original Notification No. 5/2017-Central Tax dated June 19, 2017. This amendment, effective from October 10, 2024, introduces a significant change concerning suppliers of metal scrap. Under this new notification, suppliers engaged in the supply of metal scrap falling under Chapters 72 to 81 of the Customs Tariff Act, 1975, are excluded from the provisions of the earlier notification. The move comes as part of the broader GST framework updates following recommendations from the GST Council. The intent is to streamline the taxation of the metal scrap sector, aligning it with recent GST Council decisions, which also introduced Reverse Charge Mechanism (RCM) and Tax Deducted at Source (TDS) provisions for the sector.

<https://taxinformation.cbic.gov.in/view-pdf/1010189/ENG/Notifications>

**13. Clarification on GST Applicability for Various Services [Circular No. 234 Dated Oct 11, 2024]**

The Government of India has issued Circular No. 234/28/2024-GST, providing clarifications on the applicability of Goods and Services Tax (GST) for various services, following recommendations from the GST Council’s 54th meeting on September 9, 2024. It clarifies that universities’ affiliation services to colleges and educational boards’ affiliation services to schools are subject to an 18% GST, with a recent exemption for government schools. The circular also confirms that flying training courses approved by the Directorate General of Civil Aviation (DGCA) are exempt from GST. Moreover, the circular establishes that passenger transport by helicopters on a seat-share basis is subject to a 5% GST, while charter operations continue at 18%. Ancillary services related to goods transportation by road will generally be treated as part of the composite supply of transport, unless invoiced separately. The circular additionally addresses the

regularization of GST on service imports by foreign airline establishments when made without consideration. Preferential Location Charges (PLC) for residential or commercial property sales are also clarified to attract the same GST rate as construction services. Lastly, certain support services provided by electricity transmission utilities will now be exempt from GST, with retroactive application to past periods. These clarifications aim to streamline tax compliance and ensure uniform application across various sectors.

<https://taxinformation.cbic.gov.in/view-pdf/1003239/ENG/Circulars>



## Lesson 17 – Time, Value and Place of Supply

### 1. Clarification regarding GST rates and classification of certain goods

**(Circular No. 189/01/2023-GST-January 13, 2023)**

CBIC makes clarifications, with reference to applicability of GST based on the recommendations of GST Council in its 48th meeting held on December 17, 2022, related to the various items like; Rab, by-products of milling of Dal/ Pulses, Carbonated Beverages of Fruit Drink, fryums, Sports Utility Vehicles (SUVs) etc.

#### **Brief Analysis**

As per this Circular, CBIC made Clarifications regarding GST rates & classification (goods) based on the recommendations of the GST Council which covers, the various items like; Rab which is appropriately classifiable under heading 1702 attracting GST rate of 18%, by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi/Chuni shall be exempt under GST, Carbonated Beverages of Fruit Drink or 'Carbonated Beverages with Fruit Juice attract GST at the rate of 28% and Compensation Cess at the rate of 12%, fryums covers goods with description 'Extruded or expanded products, savoury or salted', and thereby attract GST at the rate of 18%, Sports Utility Vehicles (SUVs) which attract compensation cess at the rate of 22% and IGST rate has been increased from 5% to 12% on goods specified under notification No. 3/2017-Integrated Tax (Rate).

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1003143/ENG/Circulars>

### 2. Clarifications regarding applicability of GST on certain services

**(Circular No. 190/02/2023- GST, dated January 13, 2023)**

CBIC makes clarifications, regarding accommodation services supplied by Air Force Mess to its personnel qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority hence are exempt from GST. Further, Govt. is clarified that incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

#### **Brief Analysis**

As per this Circular, CBIC made Clarifications regarding applicability of GST on certain services like accommodation services supplied by Air Force Mess to its personnel are exempt from GST vide Sl. No. 6 of notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017 and Incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transaction up to Rs.2000/-. The incentive is in the nature of a subsidy directly linked to the price of the service and the same does not form part of the taxable value of the transaction in view of the provisions of section 2(31) and section 15 of the CGST Act, 2017. It is hereby clarified that incentives paid by MeitY to acquiring banks under the

Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1003144/ENG/Circulars>

### **3. Place of supply of goods purchased Over the Counter in one State and transported to another State by the buyer [Section 10 of the IGST Act amended]**

There are cases where an unregistered person purchases goods over the counter (OTC) in one State and thereafter, transports the goods to another State (generally, the State where he resides). For instance, migrant workers, tourists, etc. who come to a State for work, tourism, etc. and purchase goods in that State to take it to their respective State. Similarly, in automobile sector, the residents of a State may travel to another State to purchase vehicle from that State to take advantage of lower registration charges and road tax, which vary from State to State and thereafter, take the vehicle to their State.

For bringing in clarity in respect of the determination of place of supply (POS) in such cases, with effect from 01.10.2023, IGST Amendment Act, 2023 has amended section 10 of the IGST Act to insert new clause (ca) in said section which provides as follows:

Where the supply of goods is made to a person other than a registered person, the place of supply shall, notwithstanding anything contrary contained in clause (a) or clause (c) of section 10, be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.

For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person.

### **4. Clarification regarding place of supply in case of supply of services in respect of advertising sector**

Advertising companies are often involved in procuring space on hoardings/ bill-boards erected and mounted on buildings/land, in different States, from various suppliers ("vendors") for providing advertisement services to its corporate clients. There may be variety of arrangements between the advertising company and its vendors as below:

**Issue:** There may be a case wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure. What will be the place of supply of services provided by the vendor to the advertising company in such case?

**Clarification:** The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of the IGST Act.

As per section 12(3)(a) of the IGST Act, the place of supply of services directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other

related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction work shall be the location at which the immovable property is located.

Therefore, the place of supply of service provided by way of supply of space on hoarding/ structure for advertising or for grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located.

**Issue:** There may be another case where the advertising company wants to display its advertisement on hoardings/ billboards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/ billboards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertising company at the said location.

During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure. In this case, what will be the place of supply of such services provided by the vendor to the advertising company?

**Clarification:** In this case, as the service is being provided by the vendor to the advertising company and there is no supply (sale) of space/ supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company for display of their advertisement on the said display board/structure, the said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property.

Accordingly, the place of supply of the same shall not be covered under section 12(3)(a) of IGST Act. Vendor is in fact providing advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location.

Therefore, such services provided by the vendor to advertising company are purely in the nature of advertisement services in respect of which place of supply shall be determined in terms of section 12(2) of IGST Act.

## **5. Valuation in Online Gaming & Casinos [Notification No. 45 Dated Sept 6, 2023]**

The Central Board of Indirect Taxes and Customs (CBIC) has introduced significant amendments through Notification No. 45/2023-Central Taxes dated September 6, 2023, pertaining to the Central Goods and Services Tax (CGST) rules. These changes are set to bring clarity to the valuation of supplies in the realm of online gaming and casinos.

**Rule 31B – Valuation of Supply in Online Gaming:** Under this rule, the CBIC outlines the valuation of supply concerning online gaming, which includes online money gaming. The key provisions are as follows: The value of supply for online gaming, including actionable claims associated with online money gaming, is determined as the total amount paid or payable to or deposited with the supplier. This payment can be made in the form of money, money's worth, or virtual digital assets on behalf of the player. It's crucial to note that any amount returned or refunded to the player or any unused amount by the player cannot be deducted from the value of supply.

**Rule 31C – Valuation of Supply of Actionable Claims in Casinos:** This rule pertains to the valuation of actionable claims in the context of casinos. It sets forth the following valuation criteria: The value of supply of actionable claims in a casino is determined as the total amount paid or payable by or on behalf of the player. This payment can occur when purchasing tokens, chips, coins, or tickets for use in the casino or when participating in casino events, games, competitions, or activities where tokens, chips, coins, or tickets are not required. Similar to Rule 31B, any amount refunded by the casino to the player upon returning tokens, chips, coins, or tickets, or through other means, cannot be subtracted from the value of supply of actionable claims in the casino.

Explanation: An important clarification provided in the notification is that any amount won by a player in an event, game, scheme, competition, or other activities, and subsequently used for further gaming or betting without withdrawal, will not be considered as an amount paid or deposited with the supplier. This exclusion is critical in determining the value of supply under Rule 31B and Rule 31C.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1009850/ENG/Notifications>

#### **6. Place of supply of goods sold to unregistered persons [Circular No. 209 Dated June 26, 2024]**

The circular clarifies that where the address of delivery of goods recorded on the invoice is different from the billing address of the unregistered person on the invoice, the place of supply of goods will be the address of delivery of goods recorded on the invoice.

This implies that when an unregistered person from State ‘X’ places an order for supply of goods and directs delivery to a different address in State ‘Y’, the place of supply will be State ‘Y’, i.e. the place of delivery.

It is stated that the supplier may record the delivery address as the address of the recipient on the invoice for the purpose of determining the place of supply of the said supply of goods.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003212/ENG/Circulars>

#### **7. Clarification on valuation of supply of import of services by a related person where recipient is eligible to full ITC [Circular No. 210 Dated June 26, 2024]**

The circular seeks to clarify that earlier circular dated 17 July 2023 regarding the supplies of services between distinct persons in cases where full ITC is available to the recipient, is equally applicable for the import of services between related persons. Accordingly, the value of the said supply of services declared in the invoice will be deemed to be the open market value of such services, if the recipient is eligible for full ITC as per second proviso to rule 28 (1) of the CGST Rules. For such imported services, the recipient in India must pay tax under the reverse charge mechanism and issue a self-invoice as required under law.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003211/ENG/Circulars>

#### **8. Clarification on the place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors (FPI) [Circular No. 220 Dated June 26, 2024]**

The circular clarifies the place of supply for custodial services provided by banks to FPIs. It states that these services should not be considered as services provided to ‘account holders’ under section 13(8)(a) of the IGST Act. The place of supply for such services should be determined under the default provision, which is sub-section (2) of section 13 of the IGST Act. The circular provides details on the definition of custodial services, the types of securities FPIs can

invest in, and the main activity of banks in providing custodial services. The circular also specifies that similar provisions were there under the service tax regime.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003201/ENG/Circulars>

**9. Clarification on the time of supply regarding the supply of services of construction of road and maintenance thereof under the National Highway Projects of National Highways Authority of India (NHAI) in the Hybrid Annuity Mode (HAM) model [Circular No. 221 Dated June 26, 2024]**

The circular has clarified the issue of the Time of Supply for the purpose of payment of tax on the deferred annuity payments received by the concessionaire from NHAI for the construction of road and operation and maintenance (O&M) thereof under the HAM model.

In HAM contracts, a certain portion of payment linked to construction is payable during the construction and the remaining payment is received in instalments over the concession period as per the payment schedule. However, the revenue authorities have been advancing the view that GST is payable on the percentage of construction completion method. The circular has clarified the time of supply provisions mainly considering that the HAM contract should be considered holistically as a single contract for both construction and O&M services. It cannot be artificially split based on payment terms. The following clarifications have been provided.

- a. The tax liability on the concessionaire under the HAM contract, including on the balance portion linked to the construction portion will arise at the time of issuance of invoice or receipt of payment, whichever is earlier [if the invoice is issued on or before the specified date or date of completion of the event specified in the contract].
- b. If the invoices are not issued on or before the specified date or date of completion of the event as specified in the contract, the tax liability will arise on the date of provision of the said service or date of receipt of payment whichever is earlier.
- c. Instalments or annuity payable by NHAI to the concessionaire includes the interest component. The interest amount should also be includible in the taxable value for the purpose of payment of tax on the annuity or instalment in terms of section 15(2)(d) of the CGST Act.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003200/ENG/Circulars>

**10. Clarification on time of supply of services of spectrum usage and other similar services under GST [Circular No. 222 Dated June 26, 2024]**

The circular clarifies the time of supply for the GST payment on spectrum allocation services when the telecom operator opts for deferred payment in instalments. The spectrum allocation service provided by the Department of Telecommunications (DoT) is treated as a continuous supply of services under section 2(33) of the CGST Act. The circular clarifies that the Frequency Assignment Letter issued by the DoT which details the auction results and payment options, is not considered as an invoice but a bid acceptance document. Hence, the GST liability arises at the time the instalment payments are due or made, whichever is earlier.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003199/ENG/Circulars>

**11. Clarification on various issues pertaining to taxability and valuation of supply of services of providing corporate guarantee between related persons. [Circular No. 225 Dated July 11, 2024]**

Various representations have been received from trade and industry, seeking clarifications on various issues pertaining to the taxability and valuation of the supply of services of providing corporate guarantee between related persons as per the said rule. Therefore, in order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, clarifies the issues.

<https://taxinformation.cbic.gov.in/view-pdf/1003220/ENG/Circulars>

### CASE LAWS

<b>December 30, 2023</b>	<b>In Re : Doms Industries Pvt. Ltd. (2023)</b>	<b>AAR - Gujarat</b>
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#### **Facts of the case:**

Applicant is manufacturer and suppliers of stationery items - Applicant supplies different products in single box/pack for single price - One kit contains pencils, eraser and sharpner - Second one contains colouring books, pencils, colour pencil, oil pastels, wax crayons, eraser, scale and sharpner and third one contains pencil, eraser, scale and sharpner.

#### **Held:**

In order to qualify any supply under mixed supply following conditions are to be satisfied viz (i) there should be two or more individual supplies of goods or services or in any combination thereof, (ii) such supply should be made in conjunction with each other for a single price and (iii) such supply does not constitute a composite supply - In instant case, supply of different products in single box/pack and in single price made by applicant satisfies all three conditions of mixed supply; therefore, said supply is covered under category of mixed supply under section 2(74) and supply which attracts higher rate of tax among all taxable supplies containing in pack/box shall be applicable rate of tax for said mixed supply.

<b>April 20, 2023</b>	<b>In Re : Eden Real Estates Pvt. Ltd. (2023)</b>	<b>AAAR-West Bengal</b>
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#### **Facts of the case:**

Applicant-assessee is developing a residential housing project and supplying construction services to recipients for possession of dwelling units - In addition to construction services, applicant-assessee provides services towards right to use of car parking space to prospective buyers who opt for same for which they are additionally charged by applicant-assessee during sale of apartment- Applicant assessee seeks advance ruling on whether amounts charged by applicant-assessee for right to use of car/two wheeler vehicle.

Parking space along with sale of under constructed apartments to its prospective buyers is to be treated as a composite supply of construction of residential apartment services or same is a distinct supply under section 7 of CGST/WBGST Act, 2017 – Further, If same is not to be treated as a composite supply, then rate of tax applicable on such charges collected by applicant-assessee from its prospective customers.

**Held:** Aforesaid fact delineates that such supply is altogether a separate service and it cannot be treated as naturally bundled with construction services – Hence, supply of services for right to use of car parking space is a separate supply and not to be construed as a composite supply of construction of residential apartment services-Further, supply of services for right to use of car parking space would be taxable at 18 percent.

## Lesson 18 – Input Tax Credit and Computation of GST Liability

### 1. Clarification on charging of interest under section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof [Circular No. 192 Dated July 17, 2023]

Issue	Clarification
<p>In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B of CGST Rules, whether the balance of input tax credit available in electronic credit ledger under the head of IGST only needs to be considered or total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.</p>	<p>Since the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B of CGST Rules and for determining as to whether the balance in the electronic credit ledger has fallen below the amount of wrongly availed input tax credit of IGST, and to what extent the balance in electronic credit ledger has fallen below the said amount of wrongly availed credit.</p> <p>Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under sub-section (3) of section 50 of CGST Act if, during the time period starting from such availment and up to such reversal, the balance of input tax credit (ITC) in the electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in electronic credit ledger individually falls below the amount of such wrongly availed IGST credit. However, when the balance of ITC, under the heads of IGST, CGST and SGST of electronic credit ledger taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in electronic credit ledger under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit, and will attract interest as per sub-section (3) of section 50 of CGST Act, read with section 20 of Integrated Goods and Services Tax Act, 2017 and sub-rule (3) of rule 88B of CGST Rules.</p>
<p>Whether the credit of compensation cess available in electronic credit ledger shall be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under sub-rule (3) of rule 88B of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.</p>	<p>As per proviso to section 11 of Goods and Services Tax (Compensation to States) Act, 2017, input tax credit in respect of compensation cess on supply of goods and services leviable under section 8 of the said Act can be utilised only towards payment of compensation cess leviable on supply of goods and services. Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads.</p> <p>Accordingly, credit of compensation cess available in electronic credit ledger cannot be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under sub-rule (3) of rule 88B of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.</p>

**For Details:** <https://taxinformation.cbic.gov.in/view-pdf/1003166/ENG/Circulars>



**2. Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period. [Circular No. 195 Dated July 17, 2023]**

Issue	Clarification
<p>There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services. Whether GST would be payable on such replacement of parts or supply of repair services, without any consideration from the customer, as part of warranty?</p>	<p>The value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and / or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods.</p> <p>As such, where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, no further GST is chargeable on such replacement of parts and/ or repair service during warranty period. However, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.</p>
<p>Whether in such cases, the manufacturer is required to reverse the input tax credit in respect of such replacement of parts or supply of repair services as part of warranty, in respect of which no additional consideration is charged from the customer?</p>	<p>In such cases, the value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and/ or repair services to be incurred during the warranty period. Therefore, these supplies cannot be considered as exempt supply and accordingly, the manufacturer, who provides replacement of parts and/ or repair services to the customer during the warranty period, is not required to reverse the input tax credit in respect of the said replacement parts or on the repair services provided</p>
<p>Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?</p>	<p>There may be instances where a distributor of a company provides replacement of parts and/ or repair services to the customer as part of warranty on behalf of the manufacturer and no separate consideration is charged by such distributor in respect of the said replacement and/ or repair services from the customer. In such cases, as no consideration is being charged by the distributor from the customer, no GST would be payable by the distributor on the said activity of providing replacement of parts and/ or repair services to the customer. However, if any additional consideration is charged by the distributor from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.</p>

**For Details:** <https://taxinformation.cbic.gov.in/view-pdf/1003169/ENG/Circulars>



**3. Clarification regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons [Circular No. 199 Dated July 17, 2023]**

Issue	Clarification
<p>Whether HO can avail the input tax credit (hereinafter referred to as 'ITC') in respect of common input services procured from a third party but attributable to both HO and BOs or exclusively to one or more BOs, issue tax invoices under section 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow the Input Service Distributor (hereinafter referred to as 'ISD') mechanism for distribution of ITC in respect of common input services procured by them from a third party but attributable to both HO and BOs or exclusively to one or more BOs?</p>	<p>It is clarified that in respect of common input services procured by the HO from a third party but attributable to both HO and BOs or exclusively to one or more BOs, HO has an option to distribute ITC in respect of such common input services by following ISD mechanism laid down in Section 20 of CGST Act read with rule 39 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules'). However, as per the present provisions of the CGST Act and CGST Rules, it is not mandatory for the HO to distribute such input tax credit by ISD mechanism. HO can also issue tax invoices under section 31 of CGST Act to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs and the BOs can then avail ITC on the same subject to the provisions of section 16 and 17 of CGST Act.</p> <p>In case, the HO distributes or wishes to distribute ITC to BOs in respect of such common input services through the ISD mechanism as per the provisions of section 20 of CGST Act read with rule 39 of the CGST Rules, HO is required to get itself registered mandatorily as an ISD in accordance with Section 24(viii) of the CGST Act.</p> <p>Further, such distribution of the ITC in respect a common input services procured from a third party can be made by the HO to a BO through ISD mechanism only if the said input services are attributable to the said BO or have actually been provided to the said BO. Similarly, the HO can issue tax invoices under section 31 of CGST Act to the concerned BOs, in respect of any input services, procured by HO from a third party for on or behalf of a BO, only if the said services have actually been provided to the concerned BOs.</p>
<p>In respect of internally generated services, there may be cases where HO is providing certain services to the BOs for which full input tax credit is available to the concerned BOs. However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs. Whether the HO is mandatorily</p>	<p>The value of supply of services made by a registered person to a distinct person needs to be determined as per rule 28 of CGST Rules, read with sub-section (4) of section 15 of CGST Act. As per clause (a) of rule 28, the value of supply of goods or services or both between distinct persons shall be the open market value of such supply. The second proviso to rule 28 of CGST Rules provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Accordingly, in respect of supply of services by HO to BOs, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, if the recipient BO is eligible for full input tax credit.</p> <p>Accordingly, in cases where full input tax credit is available to a BO,</p>

required to issue invoice to BOs under section 31 of CGST Act for such internally generated services, and/ or whether the cost of all components including salary cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs when full input tax credit is available to the concerned BOs.	<p>the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice.</p> <p>Further, in such cases where full input tax credit is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules.</p>
In respect of internally generated services provided by the HO to BOs, in cases where full input tax credit is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs.	In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases where full input tax credit is not available to the concerned BO.

**For Details:** <https://taxinformation.cbic.gov.in/view-pdf/1003173/ENG/Circulars>

#### **4. Clarification regarding the time limit under section 16(4) of the CGST Act for RCM supplies received from unregistered persons [Circular No. 211 Dated June 26, 2024]**

Section 16(4) of the CGST Act links the time limit for ITC availability with the financial year (FY) to which the invoice or debit note pertains.

This circular clarifies that in case the supplies on which tax is paid by a recipient under RCM are received from unregistered suppliers and the invoice is issued by recipient as per section 31(3)(f) of the CGST Act, the relevant FY for the calculation of time limit for availing ITC will be the FY in which self-invoice has been issued by the recipient, as per section 16(4) of the CGST Act. This is subject to the fulfilment of other conditions and restrictions of sections 16 and 17 of the CGST Act.

Additionally, when the recipient issues invoice after the time of supply and pays tax thereon, it will be required to pay interest and may also be liable to pay a penalty according to section 122 of the CGST Act.

**For Details:** <https://taxinformation.cbic.gov.in/view-pdf/1003210/ENG/Circulars>

#### **5. Mechanism for providing evidence of compliance with section 15(3)(b)(ii) of the CGST Act for excluding post sale discounts from the taxable value [Circular No. 212 Dated June 26, 2024]**

The circular states that till a functionality or facility is made available on the common portal to verify compliance with section 15(3)(b)(ii) of the CGST Act, the supplier may procure a certificate issued by a Chartered Accountant

(CA) or Cost Accountant (CMA) [containing a Unique Document Identification Number (UDIN)] from the recipient of the supply; specifically, this should certify that the recipient has proportionately reversed ITC at their end for the credit note issued by the supplier. The suppliers can obtain self-undertaking from the recipients (if the reversal amount is less than INR 500000 in a FY).

The circular specifies that the certificate or undertaking may contain the details of the credit note, invoice against which credit note has been issued, ITC reversal amount and a relevant document (Form GST DRC-03, return, etc.) that provides evidence of the reversal of ITC.

The circular further states that the certificates or undertakings will be treated as a suitable and admissible evidence for the purpose of section 15(3)(b)(ii) of the CGST Act and produced by the supplier before the TOs, if required, during any proceedings (scrutiny, audit, investigations, etc).

The circular also clarifies that the same mechanism can be applied for the past period, wherever any such evidence is required to be produced by the supplier to the tax authorities.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003209/ENG/Circulars>

## **6. Clarification on the requirement of ITC reversal regarding the portion of premium for life insurance policies which is not included in the taxable value [Circular No. 214 Dated June 26, 2024]**

Life insurance policies which include a component of investment along with the component of risk cover for life insurance, are covered under the life insurance business.

The provisions regarding the value of supply of the services in relation to life insurance business are contained in rule 32(4) of the CGST Rules. It provides that the value of supply of services in respect of life insurance business is primarily to be determined by deducting the amount of premium allocated for investment or savings on the policy holder's behalf from the gross premium charged from them. It also provides for the determination of value of supply of such services based on a certain percentage of gross premium in other situations.

Section 17(2) of the CGST Rules read with rules 42 or 43 of the CGST Rules require ITC reversal where ITC is used partly for effecting taxable supplies and partly for exempt supplies.

The circular clarifies that just because some amount of consideration is not included in the value of taxable supply as per valuation provisions, the said portion of consideration cannot be said to now be attributable to a non-taxable or exempt supply. Hence, there is no requirement of ITC reversal regarding the said amount.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003207/ENG/Circulars>

## **7. Entitlement of ITC by insurance companies on expenses incurred for the repair of motor vehicles in the case of reimbursement mode of an insurance claim settlement [Circular No. 217 Dated June 26, 2024]**

ITC is available to insurance companies for the motor vehicle repair expenses incurred by them in the case of the reimbursement mode of claim settlement. This is because the insurance company qualifies as a recipient and the consideration includes payment made by third person.

Some scenarios may exist where the amount of repair services is more than the approved claim cost and the insurance company only reimburses the approved claim cost to the garage after considering the standard deductions. The remaining amount is to be paid by the insured to the garage. Here, the circular clarified on following two scenarios:

- The garage issues 2 separate invoices to the – (1) insurance company regarding the approved claim cost; and (2) customer for the amount of repair service in excess of the approved claim cost: ITC is available to the

insurance company on the said invoice subject to the reimbursement of the said amount by the insurance company to the customer.

- The garage issues an invoice for the full amount for repair services to the insurance company while the latter makes a reimbursement to the insured only for the approved claim cost: ITC is available to the insurance company only to the extent of the reimbursement of approved claim cost to the insured, and not on full invoice value.

ITC is available to the insurer only when the invoice for the repair of the vehicle is in the name of the insurance company to satisfy the conditions laid down in section 16(2)(a) and (aa) of the CGST Act.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003204/ENG/Circulars>

#### **8. Clarification regarding availability of ITC on ducts and manholes used in the network of Optical Fibre Cables (OFCs) according to section 17(5) of the CGST Act, 2017 [Circular No. 219 Dated June 26, 2024]**

The circular has clarified the issue of availing ITC on ducts and manholes used in the network of OFC's which was denied as the same was said to be restricted in terms of sections 17(5)(c) and 17(5)(d) of the CGST Act. Now, it has been clarified that availing ITC on ducts and manholes used in the network of OFC's is not restricted in terms of the said section because of the following –

- a) Ducts and manholes are basic components for the optical fibre network used in providing Telecommunication services.
- b) Regarding the explanation to section 17 of the CGST Act, 2017, ducts and manholes are not specifically excluded from the definition of plant and machinery as they are neither in the nature of land, building or civil structures nor are they in the nature of telecommunication towers or pipelines laid outside factory.
- c) Ducts and Manholes are in the nature of plant and machinery as they are used as part of the OFC network for making outward supply of the transmission of telecommunication signals.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003202/ENG/Circulars>

#### **9. Clarification on availability of input tax credit in respect of demo vehicles [Circular No. 231 Dated September 11, 2024]**

Demo vehicles are those maintained by dealers as per dealership norms for trial runs and feature demonstrations to potential buyers. Typically, these vehicles are purchased from manufacturers and recorded as capital assets in the dealer's books. The circular addresses two key issues: the eligibility of ITC for demo vehicles as per section 17(5) of the CGST Act, and the impact of capitalizing these vehicles on ITC availability.

The circular clarifies that ITC on demo vehicles is generally blocked under clause (a) of section 17(5) of the CGST Act, which restricts credit for motor vehicles used for passenger transport with up to 13 seats unless they are used for specific purposes such as further supply, passenger transportation, or driving training. However, since demo vehicles are used to promote the sale of similar motor vehicles, they can be considered as used for "further supply of such motor vehicles," allowing ITC eligibility. ITC is not available if demo vehicles are used for other purposes, such as staff transport or merely for marketing services where the dealer acts as an agent. Additionally, even when demo vehicles are capitalized in the dealer's books, they qualify as capital goods under the CGST Act, and ITC remains available unless depreciation on the tax component is claimed under the Income-tax Act.

<https://taxinformation.cbic.gov.in/view-pdf/1003230/ENG/Circulars>

## **10. Clarification on Input Tax Credit [CircularNo.237 Dated Oct 25, 2024]**

Circular No. 237/31/2024-GST issued by CBIC on October 15, 2024, addresses the retrospective amendments to Section 16 of the CGST Act, effective from July 1, 2017. The circular explains the implementation of sub-sections (5) and (6) of Section 16, allowing taxpayers to claim input tax credit (ITC) for specific financial years if registration has been revoked and later reinstated. It provides clarification for cases where wrong ITC was availed, outlining steps for tax authorities to take action under various scenarios, including those where no demand notice has been issued or where proceedings are pending under Sections 73, 74, 107, and 108 of the CGST Act. Taxpayers affected by previous wrong ITC availment can now rectify such orders through a special procedure notified on October 8, 2024, and file applications electronically. Additionally, no refunds will be issued for taxes paid or ITC reversed due to these retrospective amendments. The circular ensures uniformity in the application of these provisions across tax authorities.

<https://taxinformation.cbic.gov.in/view-pdf/1003244/ENG/Circulars>

## Lesson 19 – Procedural Compliances under GST

### 1. Central Board of Indirect Taxes & Customs (CBIC) reduces e-invoicing limit from 10 crore to 5 crore **(Notification No. 10/2023-Central Tax New Delhi dated May 10, 2023)**

The Government, on the recommendations of the Council, reduced the limit of e-invoicing from existing limit of Rs. 10 crore to Rs. 5 crore. This amendment will come in to effect from the 1st day of August, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009732/ENG/Notifications>

### 2. CBIC rolls out Automated Return Scrutiny Module for GST returns in ACES-GST backend application for Central Tax Office **(Press Release dated May 11, 2023)**

Central Board of Indirect Taxes & Customs (CBIC) has rolled out the Automated Return Scrutiny Module for GST returns in the ACES-GST backend application for Central Tax Officers. This module will enable the officers to carry out scrutiny of GST returns of Centre Administered Taxpayers selected on the basis of data analytics and risks identified by the System. In the module, discrepancies on account of risks associated with a return are displayed to the tax officers. Tax officers are provided with a workflow for interacting with the taxpayers through the GSTN Common Portal for communication of discrepancies noticed under FORM ASMT-10, receipt of taxpayer's reply in FORM ASMT-11 and subsequent action in form of either issuance of an order of acceptance of reply in FORM ASMT-12 or issuance of show cause notice or initiation of audit / investigation.

#### **Brief Analysis**

Under this press release the Union Minister for Finance and Corporate Affairs had given directions to roll out an Automated Return Scrutiny Module for GST return at the earliest. In order to implement this non-intrusive means of compliance verification, CBIC has rolled out the Automated Return Scrutiny Module for GST returns in the ACES-GST backend application for Central Tax Officers. This module will enable the officers to carry out scrutiny of GST returns of Centre Administered Taxpayers selected on the basis of data analytics and risks identified by the System.

**For further details please visit:** <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1923445>

### 3. Rationalisation of late fee for GSTR-9 and Amnesty to GSTR-9 non-filers

**(Notification no.07/2023–Central tax- March 31, 2023)**

The Central Government, on the recommendations of the Council, hereby waives the amount of late fee referred to in section 47 of the said Act in respect of the return to be furnished under section 44 of the said Act for the financial year 2022-23 onwards.

## Brief Analysis

In the said notification the Central Government, hereby waives the amount of late fee referred to in section 47 of the said Act, the registered persons who fails to furnish the return by the due date in respect of the return to be furnished under section 44 of the said Act for the financial year 2022-23 onwards, which is in excess of amount Twenty-five rupees per day, subject to a maximum of an amount calculated at 0.02 percent. of turnover in the State or Union territory for Registered persons having an aggregate turnover of up to five crore rupees in the relevant financial year and Fifty rupees per day, subject to a maximum of an amount calculated at 0.02 percent. Of turnover in the State or Union territory for registered persons having an aggregate turnover more than five crore rupees and up to twenty crores rupees in the relevant financial year.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009689/ENG/Notifications>

#### 4. Clarification on TCS liability under Section 52 of the CGST Act, 2017 in case of multiple E-commerce Operators in one transaction. [Circular No. 194 Dated July 17, 2023]

*Issue 1: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier in the said supply, who is liable for compliances under section 52 including collection of TCS?*

##### Buyer – Buyer Side ECO – Supplier side ECO – Supplier

**Clarification:** In such a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier of the said goods or services, the compliances under section 52 of CGST Act, including collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.

e.g.: Buyer-side ECO collects payment from the buyer, deducts its fees/commissions and remits the balance to Seller-side ECO. Here, the Seller-side ECO will release the payment to the supplier after deduction of his fees/commissions and therefore will also be required to collect TCS, as applicable and pay the same to the Government in accordance with section 52 of CGST Act and also make other compliances under section 52 of CGST Act.

In this case, the Buyer-side ECO will neither be required to collect TCS nor will be required to make other compliances in accordance with section 52 of CGST Act with respect to this particular supply.

*Issue 2: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the Supplier-side ECO is himself the supplier of the said supply, who is liable for compliances under section 52 including collection of TCS?*

##### Buyer – Buyer Side ECO – Supplier (also an ECO)

**Clarification:** In such a situation, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it. e.g. Buyer-side ECO collects payment from the buyer, deducts its fees and remits the balance to the supplier (who is itself an ECO as per the definition in Sec 2(45) of the CGST Act). In this scenario, the Buyer-side ECO will also be required to collect TCS, as applicable, pay the same to the Government in accordance with section 52 of CGST Act and also make other compliances under section 52 of CGST Act.

**For Details:** <https://taxinformation.cbic.gov.in/view-pdf/1003168/ENG/Circulars>

**5. Clarification on issue pertaining to e-invoice [Circular No. 198 Dated July 17, 2023]**

Issue	Clarification
Whether e-invoicing is applicable for supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/ Government agencies/ local authorities/ PSUs which are registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act?	Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct tax at source as per provisions of section 51 of the CGST/SGST Act, are liable for compulsory registration in accordance with section 24(vi) of the CGST Act. Therefore, Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act, are to be treated as registered persons under the GST law as per provisions of clause (94) of section 2 of CGST Act. Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc under rule 48(4) of CGST Rules.

**For Details:** <https://taxinformation.cbic.gov.in/view-pdf/1003172/ENG/Circulars>

**6. Special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by composition taxpayers (Notification No. 36/2023 – Central Tax – August 04, 2023)**

The Central Government, on the recommendations of the Council, hereby notifies the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the special procedure in respect of supply of goods made through it by the persons paying tax under section 10 of the said Act, namely:

- i. the electronic commerce operator shall not allow any inter-State supply of goods through it by the said person;



the electronic commerce operator shall collect tax at source under sub-section (1) of section 52 of the said Act in respect of supply of goods made through it by the said person and pay to the Government as per provisions of subsection (3) of section 52 of the said Act. And (iii) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in **FORM GSTR-8** electronically on the common portal.

### **Brief Analysis**

In this notification, the Central Government has issued the special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by composition taxpayers. The electronic commerce operator shall not allow any inter-State supply of goods through it by the said person. They have to collect the tax at source as per GST laws.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009818/ENG/Notifications>

## **7. Special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by unregistered persons. (Notification No. 37/2023 – Central Tax – August 04, 2023)**

The Central Government, on the recommendations of the GST Council, hereby notifies the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the stated special procedure in respect of supply of goods made through it by the persons exempted from obtaining registration in accordance with the notification issued under sub-section (2) of section 23 vide notification number 34/2023- Central Tax, dated the 31st July, 2023, Namely:-

- i. The electronic commerce operator shall allow the supply of goods through it by the said person only if enrolment number has been allotted on the common portal to the said person;
- ii. The electronic commerce operator shall not allow any inter State supply of goods through it by the said person;

the electronic commerce operator shall not collect tax at source under sub-section (1) of section 52 in respect of supply of goods made through it by the said person; and (4) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 electronically on the common portal.

### **Brief Analysis**

In this notification, the Central Government has issued the special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by unregistered persons.

**For further details please visit:** <https://taxinformation.cbic.gov.in/content-page/explore-notification>

## **8. Amendments Notification - (Second Amendment, 2023) to the CGST Rules, 2017 (Notification No. 38/2023-Central Tax-August 04, 2023)**

The Central Government, on the recommendations of the Council, amended the Central Goods and Services Tax Rules, 2017, the amended rules inter alia provides for physical verification of business premises in certain cases under Rules 25. Rule 25 substituted as (1) where the proper officer is satisfied that the physical

verification of the place of business of a person is required after the grant of registration, he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of *fifteen working days* following the date of such verification. (2) Where the physical verification of the place of business of a person is required before the grant of registration in the circumstances specified in the proviso to sub- rule (1) of rule 9, the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal at least five working days prior to the completion of the time period specified in the said proviso.”.

### **Brief Analysis**

In this Circular, Board (CBIC) on the recommendations of the Council, amended the Rule 25 (i) of the GST Rules, 2017 related to physical verification of the place of business by the Proper officer in certain cases. Proper office after physical verification need to upload the report along with the other documents on the common portal within specified days.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009820/ENG/Notifications>

### **9. Tax to be paid on specified actionable claims at the time of receipt of payment for such supplies by the suppliers [Notification No. 50/2023 CT dated 29.09.2023]**

Notification No. 66/2017 CT dated 15.11.2017 was earlier issued to exempt all registered persons from the requirement of payment of tax at the time of receipt of advances in case of supply of goods and provides for payment of tax in such cases at the time of supply as specified in section 12(2)(a).

With effect from 01.10.2023, said notification has been amended to exclude registered persons making supply of specified actionable claims from the said exemption, so that in case of specified actionable claims, the tax can be paid at the time of receipt of payment for such supplies by the suppliers.

### **10. Central Goods and Services Tax (Third Amendment) Rules, 2023 [Notification No. 51/2023 – Central Tax on September 29, 2023]**

Central Board of Indirect Taxes and Customs (CBIC) have introduced the Central Goods and Services Tax (Third Amendment) Rules, 2023, through Notification No. 51/2023. These rules, made under the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (CGST Act), bring notable changes to the existing tax framework.

**Rule 8 Amendment:** Rule 8 of the CGST Rules, 2017, is amended to specify that every person liable to be registered under section 25(1) or seeking registration under section 25(3), excluding certain categories such as non-resident taxable persons and those required to deduct or collect tax at source, must declare their Permanent Account Number (PAN) and State or Union Territory in FORM GST REG-01 before applying for registration. Input Service Distributors are required to make separate registration applications. Rule 14 Amendment:

**Rule 14** is amended to include persons supplying online money gaming from outside India to a person in India within the scope of this rule. This implies that certain tax provisions are applicable to such supplies.

**New Rules 31B and 31C:** Rules 31B and 31C are introduced, specifying the valuation methods for online gaming and actionable claims in casinos, respectively. The rules detail the determination of the value of supplies in these sectors, including considerations like total amounts paid by players.

**Rule 46 Amendment:** Rule 46 is amended to specify that certain cases involving the supply of online money gaming require special considerations.

**New Rule 64:** Rule 64 outlines the form and manner of submission of returns by persons providing online information and database access or retrieval services and persons supplying online money gaming from outside India to a person in India.

**Rule 87 Amendment:** Rule 87 is amended to incorporate provisions related to persons supplying online money gaming from outside India to a person in India, aligning with section 14A of the CGST Act.

**Changes in Form GST REG-10:** Form GST REG-10 is revised to accommodate applications for registration of persons supplying online money gaming from outside India to a person in India and for registration of persons supplying online information and database access or retrieval services from outside India to a non-taxable online recipient in India.

**New Form GSTR-5A:** Form GSTR-5A is introduced to capture details of supplies of online information and database access or retrieval services made to non-taxable online recipients in India and to registered persons in India, as well as details of supplies of online money gaming from outside India to a person in India.

<https://taxinformation.cbic.gov.in/view-pdf/1009873/ENG/Notifications>

#### 11. **Central Goods and Services Tax (Fourth Amendment) Rules, 2023 [Notification No. 52/2023 – Central Tax on October 26, 2023]**

This notification introduces important amendments to the Central Goods and Services Tax Rules, 2017 & amends Rule 28, Rule 142, Rule 159, FORM GST REG-01, FORM GST REG-08, FORM GSTR-8, FORM GST PCT-01 and FORM GST DRC-22.

**Rule 28 Amendment:** Rule 28 of the Central Goods and Services Tax Rules is renumbered as sub-rule (1). Additionally, a new sub-rule (2) is introduced. This sub-rule addresses the value of supply of services by a supplier to a related person, involving the provision of a corporate guarantee to a banking company or financial institution on behalf of the recipient. The value of this supply shall be deemed as one percent of the amount of the guarantee offered or the actual consideration, whichever is higher.

**Rule 142 Modification:** In Rule 142, Sub-rule (3) is updated. The term “order” is replaced with “intimation,” indicating a shift in the nature of communication from the proper officer.

**Rule 159 Adjustment:** Rule 159, Sub-rule (2) is amended to include that the period for seeking a refund of excess balance in the electronic cash ledger is within one year from the date of issuance of the order under Sub-rule (1) or earlier, whichever applies.

**FORM GST REG-01 Update** In FORM GST REG-01, PART-B, a new clause (xiva) is added to include

“One Person Company” as a type of business entity registering under GST.

**FORM GST REG-08** Revision FORM GST REG-08 is substantially updated to cover the order of cancellation of registration as a Tax Deductor at source or Tax Collector at source. The form outlines the reasons for cancellation and emphasizes the liability to pay tax and other dues even after registration cancellation for the prior period.

**FORM GSTR-8** Amendments in FORM GSTR-8, serial number 5 is omitted. The section pertaining to interest and late fee payable and paid is revised, with separate entries for interest on TCS and late fees for Central Tax and State/UT Tax. Debit entries in the cash ledger for TCS, interest, and late fee payments are included.

**FORM GST PCT-01** Modification in FORM GST PCT-01, PART-B, the list of enrolment sought is updated to include additional qualifications, including Chartered Accountants, Company Secretaries, Cost and Management Accountants, and more.

**FORM GST DRC-22** Alteration A paragraph is added to FORM GST DRC-22, indicating that the order shall cease to have effect either on the date of issuance of an order in FORM GST DRC-23 by the Commissioner or after one year from the date of issuance, whichever is earlier.

<https://taxinformation.cbic.gov.in/view-pdf/1009923/ENG/Notifications>

**12. CBIC Enforces Biometric Aadhaar Authentication for GST in Andhra Pradesh [Notification No. 54 Dated Nov 17, 2023]**

Central Board of Indirect Taxes and Customs (CBIC) has issued a notification regarding biometric-based Aadhaar authentication for GST registration in the State of Andhra Pradesh. Previously, the same requirement was notified for the States of Gujarat and Puducherry. However, the government has now extended this mandate to include Andhra Pradesh as well.

<https://taxinformation.cbic.gov.in/view-pdf/1009941/ENG/Notifications>

**13. CBIC notifies ‘Public Tech Platform for Frictionless Credit’ as the system with which information may be shared by the common portal based on consent under sub-section (2) of Section 158A of the Central Goods and Services Tax Act, 2017 [Notification No. 06/2024 Dated February 22, 2024]**

The Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, through this Notification No. 06/2024 introduces the “Public Tech Platform for Frictionless Credit” as the designated system for sharing information through the common portal based on consent, as specified in sub-section (2) of Section 158A.

**14. Clarification on reduction of government litigation. Fixing monetary limits for filing appeals or applications by the Revenue authorities before GSTAT, High Courts and Supreme Court [Circular No. 207 Dated June 26, 2024]**

The circular has notified, subject to certain principles, exclusions, monetary limits for filing of appeals under GST by the department before GSTAT, High Court, and Supreme Court.  
The following monetary limits have been specified:

GSTAT: INR 20,00,000

High Court: INR 1,00,00,000

Supreme Court: INR 2,00,00,000

It has also been clarified that non-filing of appeal based on the above monetary limits, will not preclude the tax officer (TO) from filing appeal or application in any other case involving the same or similar issues in which the tax in dispute exceeds the monetary limit or case involving the questions of law.

The Department's decision not to appeal based on monetary limits does not imply acceptance of the underlying issues, and each cited prior order must be verified for acceptance due to monetary limits before being considered as a precedent.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003214/ENG/Circulars>

**15. Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities as per Notification No. 04/2024-Central Tax dated 5 January 2024 [Circular No. 208 Dated June 26, 2024]**

This circular provides clarifications on various practical issues while complying with the special procedure to be followed by a registered person engaged in manufacturing of certain goods such as pan masala, tobacco, and others. The clarifications are largely on reporting aspects, such as non-availability of make, model number and machine number, absence of electricity consumption rating of the packing machine, etc. and provides for the manner of undertaking compliances in such cases.

The circular also, inter-alia, clarifies that the special procedure is not applicable to (i) special economic zone units; (ii) the manual processes using electric operated heat sealer and seamer. However, the procedures are applicable for job-work and contract manufacturing scenarios.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1003213/ENG/Circulars>

**16. Processing of refund applications filed by Canteen Stores Department (CSD) [Circular No. 227 Dated July 11, 2024]**

The Central Government, vide Notifications No. 06/2017-Central Tax (Rate) , No. 06/2017-IntegratedTax (Rate) and No. 06/2017-Union territory Tax (Rate), all dated 28th June 2017, had specified the Canteen Stores Department ("CSD" for short), under the Ministry of Defence, as a person who shall be entitled to claim a refund of fifty per cent of the applicable central tax, integrated tax and Union territory tax paid by the CSD on all inward supplies of goods received by the CSD for the purposes of subsequent supply of such goods to their Unit Run Canteens or to their authorized customers. Further, vide Circular No. 60/34/2018-GST dated 04.09.2018, the manner and procedure for filing and processing of such refund claims was specified so as to ensure that the CSD shall apply for refund by filing an application manually to the jurisdictional tax office till the time the online utility for filing such refund claim is made available on the common portal.

In order to enable such CSD to file application for refund electronically, a new functionality has been made available on the common portal which allows CSD to apply for refund by filing an application electronically on the common portal. Further, Central Goods and Service Tax Rules, 2017 (hereinafter referred to as

„CGST Rules“) have been amended and a new rule 95B and FORM GST RFD-10A have been inserted in CGST Rules vide Notification No.12/2024-Central Tax dated 10.07.2024.

<https://taxinformation.cbic.gov.in/view-pdf/1003222/ENG/Circulars>

**17. Mechanism for refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to exports [Circular No. 226 Dated July 11, 2024]**

Where there is upward revision in price of goods subsequent to exports, the exporter is required to pay additional IGST on account of upward price revision along with applicable interest but there exists no mechanism for allowing them to claim refund of such additional IGST paid.

In order to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby lays down the following procedure for claim and processing of refunds of additional integrated tax paid on account of upward revision in prices of goods subsequent to their exports.

<https://taxinformation.cbic.gov.in/view-pdf/1003221/ENG/Circulars>

**18. Seeks to make amendments (Amendment, 2024) to the CGST Rules, 2017. [Notification No 12 Dated 10/07/2024]**

- Prescribes the verification procedure for registration in case person who has not opted for authentication of Aadhaar number. Effective date is yet to be notified for this amendment.
- Amendments made for the relevant rules in relation to the GSTR 1, to insert the GSTR 1A, and give recognition to GSTR 1A also form GSTR 1A Notified. Effective date is yet to be notified for this amendment.
- Scope of the provision related the corporate guarantee, is restricted to the service supplied by Indian person. and it will be determined on annual basis. and also provide the relaxation for valuation, in case Full ITC is available to recipient.  
This rule is amended retrospectively with effect from the 26th day of October, 2023, (insertion of Rule 28(2)).
- ISD Mechanism - Rules for ISD mechanism (Rule 39) substituted. Enabling the facility for refund for ISD and relevant period for making application.
- Amendment in GSTR 1
- Due date for the Furnishing annual return for Composition dealer is extended till 30 June following the end of such financial year.
- Rule 88B is amended to provide the relaxation from Interest for Amount deposited in cash ledger before due date of GSTR 3B, but GSTR 3B filed after the due date.
- Amendment in Rule 89 to Facilitate Refund on Export debit notes
- Amendments in relation to the provision for Appellate tribunal

<https://taxinformation.cbic.gov.in/view-pdf/1010097/ENG/Notifications>

**19. Seeks to rescind Notification no. 27/2022-Central Tax dated 26.12.2022. [Notification No 13 Dated 10/07/2024]**

Rule 8(4A), requires the Aadhaar authentication, however the scope of this rule is restricted to state of Gujrat and State of Puducherry vide 27/2022-Central Tax, dated the 26th December, 2022 published vide number G.S.R 903(E). The said notification has been now rescinded, so now the scope of Rule 8(4A) is applicable for All States and union territory.

<https://taxinformation.cbic.gov.in/view-pdf/1010098/ENG/Notifications>

**20. Seeks to amend Notification No. 52/2018-Central Tax, dated 20.09.2018. [Notification No 15 Dated 10/07/2024]**

Rate applicable for TCS under Sec 52 of CGST Act is reduced from 1 % (0.5%+ 0.5%) to 0.5% (0.25% +0.25%) Circular No. 223/17/2024-GST dated 10/10/2024.

<https://taxinformation.cbic.gov.in/view-pdf/1010100/ENG/Notifications>

**21. Clarification regarding regularization of refund of IGST availed in contravention of rule 96(10) of CGST Rules, 2017, in cases where the exporters had imported certain inputs without payment of integrated taxes and compensation cess. [Circular No. 233 Dated September 11, 2024]**

This circular clarified that where the inputs were initially imported without payment of integrated tax and compensation cess by availing benefits under Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017, but subsequently, IGST and compensation cess on such imported inputs are paid at a later date, along with interest, and the Bill of Entry in respect of the import of the said inputs is got reassessed through the jurisdictional Customs authorities to this effect, then the IGST, paid on exports of goods, refunded to the said exporter shall not be considered to be in contravention of provisions of sub-rule (10) of rule 96 of CGST Rules.

<https://taxinformation.cbic.gov.in/view-pdf/1003232/ENG/Circulars>

**22. Appellate Tribunal to Examine if ITC or Tax Rate Reductions result in Price Decrease [Notification No. 18 Dated September 30, 2024]**

The Central Government, on the recommendations of the Goods and Services Tax Council, hereby empowers the Principal Bench of the Appellate Tribunal, constituted under sub-section (3) of section 109 of the said Act, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by that registered person.

<https://taxinformation.cbic.gov.in/view-pdf/1010166/ENG/Notifications>



### **23. Central Goods and Services Tax (Second Amendment) Rules, 2024 [Notification No. 20 Dated Oct 8, 2024]**

The Ministry of Finance has issued Notification No. 20/2024, amending the Central Goods and Services Tax (CGST) Rules, 2017, effective from November 1, 2024. The amendments include changes to various rules concerning tax invoices, including the timeline for issuing invoices in specific circumstances. Key modifications include the addition of provisions related to the issuance of invoices when the recipient is required to do so, and the revision of deadlines for submitting GSTR-7 forms. Other amendments involve updates to refund claims and the introduction of new rules regarding the waiver of interest and penalties under specified sections.

<https://taxinformation.cbic.gov.in/view-pdf/1010185/ENG/Notifications>

### **24. Amnesty For Waiver of Interest / Penalty on Demands u/s 73 (New Section 128A) of CGST Law [Notification No. 21 Dated Oct 8, 2024]**

The CBIC has issued clarifications on the implementation of new Section 128A of the CGST Act, effective from November 1, 2024. This section allows for the waiver of interest and penalties related to demands under Section 73 of the CGST Act for the financial years 2017-18, 2018-19, and 2019-20, provided certain conditions are met. Taxpayers must pay the full demanded tax by March 31, 2025, to benefit from this waiver, and specific procedures outlined in Rule 164 detail how to apply. Notifications specify that the application for waiver must be made within six months of the re-determination order, and that partial waivers are not permitted. The waiver does not apply to interest from delayed returns or self-assessed liabilities. The guidelines also clarify that amounts recovered on behalf of the taxpayer can count towards the tax paid for waiver purposes, and payments can be made using Input Tax Credit (ITC). Notably, the waiver excludes demands for late fees and other penalties not directly related to tax demands. Taxpayers must ensure all payments are completed within stipulated timelines to retain the waiver benefits, and applications involving pending Supreme Court cases require withdrawal of such petitions prior to applying for the waiver. The guidelines provide a structured approach for taxpayers to navigate the new provisions effectively.

<https://taxinformation.cbic.gov.in/view-pdf/1010186/ENG/Notifications>

### **25. Seeks to provide waiver of late fee for late filing of NIL FORM GSTR-7 [Notification No. 23 Dated Oct 8, 2024]**

Notification No. 23/2024-Central Tax, effective from November 1, 2024, waives late fees for delayed filings of GSTR-7 returns under Section 51 of the CGST Act. It replaces Notification No. 22/2021-Central Tax, reducing late fees to ₹25 per day for delays since June 2021, capped at ₹1,000 per month. The waiver extends to Nil TDS returns, encouraging compliance and easing financial burdens on taxpayers.

<https://taxinformation.cbic.gov.in/view-pdf/1010188/ENG/Notifications>

### **26. TDS under GST on Metal Scrap: Notification No. 25/2024-Central Tax [Dated Oct 9, 2024]**

The Ministry of Finance issued Notification No. 25/2024-Central Tax on October 9, 2024, amending the earlier Notification No. 50/2018-Central Tax to clarify the Tax Deduction at Source (TDS) provisions under



Section 51 of the CGST Act, 2017. This amendment broadens the scope of TDS by including registered persons receiving metal scrap, classified under Chapters 72 to 81 of the Customs Tariff Act, 1975, in its ambit. The changes specify that TDS at a rate of 2% must be deducted for transactions where the taxable value exceeds ₹2,50,000. The buyer must obtain a separate GST registration (Form REG-07) to deduct TDS, and the supplier will receive the TDS credit in their cash ledger monthly. The notification also replaces the third proviso, confirming that while supplies between certain entities remain exempt from TDS, transactions involving metal scrap are not exempt. This amendment, effective from October 10, 2024, requires both buyers and sellers to ensure compliance with the updated GST TDS provisions, including timely filing of GSTR-7 and obtaining TDS certificates (GSTR-7A). The changes aim to streamline tax deduction, ensuring that the metal scrap industry adheres to GST's TDS requirements while improving liquidity for suppliers.

<https://taxinformation.cbic.gov.in/view-pdf/1010190/ENG/Notifications>

## **27. GST Rates Clarified for Specific Goods [CircularNo.235 Dated Oct 11, 2024]**

The Government of India, through Circular No. 235/29/2024 dated October 11, 2024, has issued clarifications on GST rates and classifications for specific goods based on recommendations from the 54th GST Council meeting held on September 9, 2024. The circular addresses three key issues:

First, it states that extruded or expanded savoury food products will attract a GST rate of 12% from October 10, 2024, while un-fried snack pellets will maintain a 5% rate. For past periods, an 18% GST is applicable.

Second, it clarifies that Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways fall under HS 8415 and attract a GST rate of 28%, not 18%.

Third, it specifies that seats for four-wheeled vehicles are classified under HS 9401, attracting a GST rate of 18%, while two-wheeler seats are classified under HS 8714 with a 28% rate. To ensure parity, from October 10, 2024, car seats will also attract a GST rate of 28%.

The circular emphasizes uniformity in implementation across the field formations and invites any difficulties regarding its application to be reported to the Board.

<https://taxinformation.cbic.gov.in/view-pdf/1003240/ENG/Circulars>

## **28. Clarification regarding the scope of “as is / as is, where is basis” mentioned in the GST Circulars issued on the basis of recommendation of the GST Council in its meetings [CircularNo.236 Dated Oct 11, 2024]**

Government of India's Circular No. 236/30/2024-GST, dated October 11, 2024, addresses doubts regarding the application of “as is” or “as is, where is” basis in the context of Goods and Services Tax (GST). This clarification follows discussions in the GST Council's 54th meeting on September 9, 2024, which recommended the issuance of guidelines for regularizing past GST payments. The circular highlights scenarios where taxpayers have faced uncertainty due to competing GST rates or misinterpretations leading to varying payment amounts. Specifically, it states that if suppliers paid a lower GST rate or claimed exemptions in good faith based on earlier ambiguous tax positions, their payments would be regarded as fully settled for the respective periods, with no refunds allowed for those who paid higher rates. It

emphasizes that this regularization applies when genuine doubts existed about the applicable tax rates, illustrated through various scenarios involving differing GST rates for the same goods. Taxpayers who paid lower rates (e.g., 5% instead of 12%) or claimed exemptions will not be liable for additional payments. However, t

he circular specifies that these provisions do not cover cases where no GST was paid, as the full tax amount will still be collectible in such instances. The circular instructs relevant authorities to communicate these guidelines to their field formations and encourages them to report any implementation difficulties.

<https://taxinformation.cbic.gov.in/view-pdf/1003241/ENG/Circulars>

## 29. Clarification of various doubts related to Section 128A of the CGST Act, 2017. [CircularNo.238 Dated Oct 25, 2024]

CBIC has issued the circular No. 238/32/2024-GST dated 15 October 2024 to clarify on certain aspects related to waiver of interest or penalty under captioned section. Key clarifications are captured below:

No.	Issue	Clarification
1	Whether benefit under captioned section shall be available, wherein the tax component has been paid before the date on which said section has come into effect	As long as the amount has been paid on or before or the notified date i.e. 31 March 2025, the said payment of tax shall be considered for benefit under captioned section
2	Whether amount recovered by tax officers as tax due from any person on behalf of taxpayer, against a particular demand can be considered as tax paid under captioned.	Yes, subject to the recovery being made on or before the notified date i.e. 31 March 2025.
3	Whether interest or penalty or both recovered by the officer towards the demand under section 73 pertaining to the period covered under section 128A can be adjusted against the tax amount payable under captioned section	No. Since the refund of interest or penalty is not available, the same cannot be adjusted towards tax payable under captioned section.
4	Whether the benefit under captioned section will be applicable in cases where tax amount has already been paid and the notice or order is for interest and/or penalty involved.	Yes. However, the said interest and/or penalty shall not be related to delay filling of returns or delay in reporting of any supply.
5	Whether the benefit under captioned section can be availed if the taxpayer intends to avail partial waiver of interest or penalty or both, by making part payment of amount demanded in notice/statement/order and opts to litigate for remaining issues	No. The benefit can only be availed if the full amount of tax demanded in the Notices/statement/order is paid.
6	Whether taxpayer can apply for the benefit under captioned section where the notice or order involves multiple periods including the period for which benefit is available.	Yes, the benefit can be availed provided the taxpayer makes the full payment of tax demanded in the notice/ statement/order. Further, the benefit of waiver of interest & penalty shall be available only for the period covered under captioned section. With respect to payment of

		interest or penalty or both for tax period not covered under captioned section, the same is to be paid with 3 months from the date of issuance of order in Form GST SPL-05 or 06
7	Whether the benefit under captioned section is available for matters involving IGST and compensation Cess	Yes subject to full payment of tax which includes the payment of IGST, CGST, SGST and Compensation Cess demanded in the notice/statement/Order
8	Whether the benefit under captioned section will cover waiver of penalties under other provisions, late fee, redemption fine etc	Late fee, redemption fine etc. are not eligible for waiver under Section 128A
9	Whether payment to avail waiver under captioned section can be made by utilizing ITC	Yes. However, in case where demand is pertaining to RCM liability or by the Ecommerce operator under Sec 9(5) of CGST Act, demand is to be paid by debiting electronic cash ledger
10	Whether the benefit of captioned section can be availed qua import IGST payable under the Customs Act, 1962?	No, since in such cases demand would have been raised under Customs Act and not under Sec 73 of CGST Act

<https://taxinformation.cbic.gov.in/view-pdf/1003243/ENG/Circulars>

## Lesson 20 - Overview of Customs Act

### 1. Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 (CAVR, 2023) (Notification No. 03/2023-Customs (N.T.) January 11, 2023)

After information to and feedback from public and stakeholders, including Directorates involved in implementation CBIC has notified the Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023. The rules provide guidance to both, the person making the reference to the Board, as well as in the undertaking of detailed examination. The operation of the CAVR, 2023 dated 11th January 2023 shall come into effect on February 11, 2023.

#### Brief Analysis

Under this notification the Central Government, hereby makes new rules by the name of Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 and the same shall come into force on 11th day of February, 2023.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009611/ENG/Notifications>

### 2. Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver (Notification No. 11/2023-CUSTOMS (N.T.), New Delhi, February 28, 2023)

By the said notification the Central Government, hereby brings changes in Tariff Value (US \$) of certain goods like Edible Oils, Brass Scrap, Areca Nut, Gold and Silver etc. in TABLE-1, TABLE-2, and TABLE-3. This change will be effective from March 01, 2023.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009656/ENG/Notifications>

### 3. Exemption of COVID-19 vaccine (Notification No. 01 /2023 – Customs, dated January 13, 2023)

The Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below, falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) specified in column (2) of the said Table, when imported into India by Central Government or State Governments, from the whole of the duty of customs leviable thereon under the said First Schedule.

#### Brief Analysis

As per this notification, the Central Government hereby exempts the COVID-19 vaccine from the whole of the duty of customs leviable thereon under the said First Schedule.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009613/ENG/Notifications>

**4. Faceless Assessment – Standard Examination Orders (SEOs) through RMS - Phased implementation of Standardized Examination Orders through RMS  
(Circular No. 02/2023-Customs-January 11, 2023)**

Considering the on track implementation and feedback from the National Customs Targeting Centre (NCTC) in Assessment Groups 4, the Board has decided to implement Standard Examination Orders (SEOs) through the Risk Management System across other assessment groups, National Assessment Centre (NAC) wise as per specified schedule.

**Brief Analysis**

In this Notification, CBIC (board) has decided to implement Standard Examination Orders (SEOs) for goods covered under Assessment Groups through the Risk Management System across assessment groups, National Assessment Centre (NAC) wise as per the given schedule and getting feedback from the National Customs Targeting Centre (NCTC) in such assessment groups.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1003142/ENG/Circulars>

**5. Amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 50/2017-Customs, dated the 30th June, 2017**

**(Notification No. 02/2023-Customs New Delhi, dated February 01, 2023)**

In the said notification, It is inserted as; If, at the time of import, the importer produces to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, a certificate from an Officer not below the rank of Joint Secretary to the Government of India in the Ministry of Heavy Industries certifying that the imported goods (having regard to their description, quantity and technical specification) are intended for use by testing agencies specified in List 37 for testing and/or certification purposes only; This notification came into force from February 02, 2023.

**Brief Analysis**

In the said notification, the Central Government, hereby makes the further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 50/2017-Customs, dated the 30th June, 2017 by inserting few entries in the said Table regarding Pecan nuts, Fish lipid oil, Crude glycerin, Algal Prime (flour), Acid grade fluorspar and in the in the Annexure, - Condition No. 113 inserted, and List 36 and List 37 and the entries relating thereto in the matter of Petrol/ Diesel Vehicles, Automotive Research Association, International Centre for Automotive Technology etc.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009620/ENG/Notifications>

**6. Amendment in Circular No. 29/2020-Customs dated 22.06.2020 for allowing transshipment of Bangladesh export cargo to third countries through Delhi Air Cargo - reg.  
(Circular No. 03/2023-Customs, New Delhi dated February 07, 2023)**

The Circular allows inter alia transshipment of Bangladesh export cargo through Kolkata Air Cargo. The goods

loaded on containers/ closed bodied trucks enter India from LCS Petrapole, move by road to Kolkata Air Cargo, from where they are airlifted and transported to third countries. It has been represented to allow this movement through Delhi Air Cargo also, for better cargo evacuation and improved logistics efficiency.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1003145/ENG/Circulars>

**7. Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver  
(Notification No. 09/2023-CUSTOMS (N.T.), New Delhi, February 15, 2023)**

The Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes amendments in TABLE-1, TABLE-2, and TABLE-3 for fixation of Tariff Value of Edible Oils like Crude Palm Oil, RBD Palm Oil & Others – Palm Oil, Brass Scrap, Areca Nut, Gold and Silver. This notification came into force with effect from February 16, 2023.

**Brief Analysis**

By the said notification the Central Government, hereby brings changes in Tariff Value (US \$) of certain goods like Edible Oils, Brass Scrap, Areca Nut, Gold and Silver etc. in TABLE-1, TABLE-2, and TABLE-3. This change will be effective from February 16, 2023.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009637/ENG/Notifications>

**8. Notification regarding change in Tariff value of Crude oil, Crude Palmolein, Brass Scrap, Gold, Silver, and Areca nuts etc.  
(Notification No. 11/2023-Customs (N.T.) New Delhi, February 28, 2023)**

The Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the amendments in the notification No. 36/2001-Customs (N.T.), dated the August, 3rd, 2001, regarding change in Tariff value of Crude oil, Crude Palmolein, Brass Scrap, Gold, Silver, Medallions and silver coins, Gold bars, and Areca nuts. This notification came into force with effect from March 01, 2023.

**Brief Analysis**

By the said notification the Central Government, hereby brings changes in Tariff Value (US \$) of certain goods like Edible Oils, Brass Scrap, Areca Nut, Gold and Silver etc. in TABLE-1, TABLE-2, and TABLE-3. This change will be effective from March 1, 2023.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009656/ENG/Notifications>

**9. Custom exemption notification regarding tag, tracking device or data logger  
(Notification No. 14/2023-Customs, New Delhi, the February 28, 2023)**

The Central Government, makes the further amendments in the notification No. 104/94-Customs. As In the said notification, after the Second proviso, an Explanation shall be inserted, regarding a device such as tag, tracking device or data logger already affixed on the container at the time of import shall also be eligible for exemption from the duty of customs and the integrated tax.

## **Brief Analysis**

As per this notification of the Central Government, a device such as tag, tracking device or data logger already affixed on the container at the time of import shall also be eligible for exemption from the duty of customs and the integrated tax.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009655/ENG/Notifications>

## **10. Customs Notification for Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver**

**(Notification No. 47/2023-New Delhi, dated June 30, 2023)**

The Central Government, on being satisfied that it is necessary and expedient to do so, make the amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the August 03, 2001, published in the Gazette of India, with respect of Crude Palm Oil, RBD Palm Oil, Brass Scrap (all grades), Gold and Silver & Areca nuts etc. for fixation of Tariff value. This notification shall come into force from the 1st of July, 2023.

### **Brief Analysis**

By the said notification the Central Government, hereby brings changes in Tariff Value (US \$) of certain goods like Edible Oils, Brass Scrap, Areca Nut, Gold and Silver etc. in TABLE-1, TABLE-2, and TABLE-3.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009758/ENG/Notifications>

## **11. Customs Notification - Customs (ADD)-Seeks to impose Anti-Dumping Duty (ADD) on Dispersion Unshifted Single Mode Optical Fiber (SMOF)**

**(Notification No. 07/2023-August 03, 2023)**

Whereas in the matter of 'Dispersion Unshifted Single –Mode Optical Fiber' falling under chapter heading 9001 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) originating in, or exported and imported into India, the designated authority in its final finding has come to the conclusion that—

- (i) the subject goods have been exported to India from the subject countries below normal values;
- (ii) the domestic industry has suffered material injury on account of subject imports from subject countries;
- (iii) the material injury has been caused by the dumped imports of subject goods from the subject countries, and has recommended imposition of an anti-dumping duty on the imports of subject goods, originating in, or exported from the subject countries and imported into India, in order to remove injury to the domestic industry.

### **Brief Analysis**

In this Notification it has recommended to impose of an Anti-Dumping Duty (ADD) on the imports of subject goods, originating in, or exported from the subject countries and imported into India, in order to remove injury to the domestic industry.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009817/ENG/Notifications>

**12. Customs Notification - Customs (ADD)-Seeks to impose Anti-Dumping Duty (ADD) pursuant to 1st SSR on Fishing Net**  
**(Notification No. 08/2023-August 29, 2023)**

Whereas in the matter of anti-dumping duty on imports of “Fishing Net” falling under tariff item 5608 11 10 of the First Schedule to the Customs Tariff Act, the designated authority in its final finding has come to the conclusion that— (i) there is continued dumping of the subject goods both directly from the subject country and indirectly through Malaysia despite the anti-dumping duties in force; (ii) the fact that Chinese-origin dumped imports continued through Malaysia after the imposition of duties shows a strong likelihood that if the duties were to be revoked the volume of subject imports will increase at a much higher rate and at much lower prices; (iii) there is a likelihood of continuance or recurrence of dumping and injury if the existing anti-dumping duties are allowed to cease, and has recommended continued imposition of the anti-dumping duty on imports of the subject goods, originating in or exported from the subject country, in order to remove injury to the domestic industry.

**Brief Analysis**

In this Notification it has recommended to continue the imposition of the Anti-Dumping Duty (ADD) on imports of the subject goods, originating in or exported from the subject country, in order to remove injury to the domestic industry.

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009840/ENG/Notifications>

**13. Customs Notification - Deferred Payment of Import Duty (Amendment) Rules, 2023**  
**(Notification No. 58/2023-August 03, 2023)**

The Central Government hereby makes the following rules further to amend the Deferred Payment of Import Duty Rules, 2016. In the Rule 4, the following proviso shall be inserted, namely:

“Provided that, where the Central Government considers it necessary and expedient, it may, under exceptional circumstances, and for reasons to be recorded in writing, allow payment to be made on a different due date.”

**For further details please visit:** <https://taxinformation.cbic.gov.in/view-pdf/1009816/ENG/Notifications>

**14. Amendments to the All-Industry Rates of Duty Drawback effective from 03.05.2024**

All – Industry Rates of Duty Drawback have been enhanced for the following items:

- i. Certain marine products
- ii. Certain goods bag, hand bags, trunks, suit-case
- iii. Articles of bed linen, table linen, toilet linen, and kitchen linen,
- iv. Unnamed aircraft,
- v. Radar apparatus, radio navigational etc.

**For details:** <https://taxinformation.cbic.gov.in/view-pdf/1003195/ENG/Circulars>



**15. CBIC amends Notification No. 11/2018 dated 2nd February 2018, to exempt certain entries from Social Welfare Surcharge (SWS) [Notification No. 04 January 22, 2024]**

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1009995/ENG/Notifications>

**16. CBIC notifies concession to imported EVs to promote EVs manufacturing in India [Notification No. 19 March 15, 2024]**

Ministry of Finance, Department of Revenue, has issued Notification No. 19/2024-Customs on March 15th, 2024, introducing significant amendments to the Customs Act, 1962, and the Customs Tariff Act, 1975 which amends Notification No. 50/2017-Customs, dated the 30th June, 2017 to give concession to EVs imported under of the Ministry of Heavy Industries' Scheme to promote manufacturing of electric passenger cars in India.

For Details: <https://taxinformation.cbic.gov.in/view-pdf/1010041/ENG/Notifications>