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The CBIC issued various circulars on the 53rd GST council recommendations

1. Circular No. 207/1/2024-GST dated June 26, 2024 - *regarding the reduction of Government Litigation – fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court.*

As per section 120 of the CGST Act read with section 168 of the CGST Act, fixes the following monetary limits below which appeal or application or Special Leave Petition, as the case may be, **shall not be filed by the Central Tax officers** before GSTAT, High Court and Supreme Court under the provisions of CGST Act, subject to the exclusions mentioned in para 4 below:

Appellate Forum	**Monetary Limit (amount involved in Rs.)**
GSTAT	20,00,000/-
High Court	1,00,00,000/-
Supreme Court	2,00,00,000/-

There are certain principles while determining whether a case falls within the above monetary limits or not and certain exclusion are also specified in Circular.

(https://taxinformation.cbic.gov.in/view-pdf/1003214/ENG/Circulars)

2. Circular No. 208/2/2024-GST dated June 26, 2024 - clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities as per Notification No. 04/2024 - Central Tax dated 05.01.2024.

To ensure uniformity in the implementation of the provisions of law across the field formations the board has clarifies various issues like

- Non-availability of make, model number and machine number
- Electricity consumption rating of the packing machine is not available
- Value has to be reported in FORM GST SRM-II in case of goods having no MRP i.e. goods manufactured for export market
- Qualification and eligibility of the Chartered Engineer for providing Chartered Engineer certificate
- Applicability of Special Procedure to the manufacturing units located in SEZ
- Applicability to the manual processes using electric operated heat sealer and seamer etc.

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Details Clarification of above issues is specified in Circular.

(https://taxinformation.cbic.gov.in/view-pdf/1003213/ENG/Circulars)

3. Circular No.209/3/2024-GST dated June 26, 2024 - ***Clarification on the provisions of clause (ca) of Section 10(1) of the IGST, 2017 relating to place of supply of goods to unregistered persons.***

Place of supply of goods (particularly being supplied through e-commerce platform) to unregistered persons where billing address is different from the address of delivery of goods on invoice

It is clarified that in such cases the place of supply of goods in accordance with the provisions of clause (ca) of sub-section (1) of section 10 of IGST Act, shall be the **address of delivery of goods recorded on the invoice.**

Also, in such cases involving supply of goods to an unregistered person, where the billing address and delivery address are different, the supplier may record the delivery address as the address of the recipient on the invoice for the purpose of determination of place of supply of the said supply of goods.

(https://taxinformation.cbic.gov.in/view-pdf/1003212/ENG/Circulars)

4. Circular No.210/4/2024-GST dated June 26, 2024 - ***clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit.***

It is clarified with Circular No. 199/11/2023-GST dated 17.07.2023 in respect of supplies of services between distinct persons in cases where full ITC is available to the recipient, **is equally applicable in respect of import of services between related persons.**

In case of import of services by a registered person in India from a related person located outside India, the tax is paid under RCM by registered person and he is required to issue self-invoice under Section 31(3)(f) of CGST Act and pay tax on reverse charge basis.

In view of the above, it is clarified that in cases where the foreign affiliate is providing certain services to the related domestic entity, and where full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.

Further, in cases where full input tax credit is available to the recipient, **if the invoice is not issued by the related domestic entity** with respect to any service provided by the foreign affiliate to it, ***the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.***

(https://taxinformation.cbic.gov.in/view-pdf/1003211/ENG/Circulars)

5. Circular No. 211/5/2024-GST dated June 26, 2024 - ***clarification on time limit u/s 16(4) of CGST Act, 2017 in respect of RCM supplies received from unregistered persons***

It is clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under RCM and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) of CGST Act, the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of CGST Act *will be the financial year in which the invoice has been issued by the recipient under section 31(3)(f) of CGST Act, subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of section 16 and 17 of CGST Act.*

In case, ***the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly,*** he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 of CGST Act.

(https://taxinformation.cbic.gov.in/view-pdf/1003210/ENG/Circulars)

6. Circular No.-212/6/2024-GST dated June 26, 2024 - ***Mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers.***

In view of the comply with condition of sec 15(3)(b) (regarding discount excluded from value of supply) that includes the requirement of reversal of input tax credit by the recipient attributable to the said discount, there is no system functionality/ facility presently available on the common portal to enable the supplier or the tax officer to verify the compliance of the said condition of proportionate reversal of input tax credit by the recipient.

Till the time a functionality/ facility is made available on the common portal to enable the suppliers as well as the tax officers to verify whether the input tax credit attributable to such discounts offered through tax credit notes has been reversed by the recipient or not, **the supplier may procure a certificate from the recipient of**

supply, issued by the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that the recipient has made the required proportionate reversal of input tax credit at his end in respect of such credit note issued by the supplier.

Details regarding such certificate issued by CA/CMA specified in circular.

(https://taxinformation.cbic.gov.in/view-pdf/1003209/ENG/Circulars)

7. Circular No. 213/07/2024-GST dated June 26, 2024 - *Clarification on the taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company.*

It is clarified that ***no supply of service appears to be taking place between the foreign holding company and the domestic subsidiary company*** where the foreign holding company issues ESOP/ESPP/RSU to the employees of domestic subsidiary company, and the domestic subsidiary company reimburses the cost of such securities/shares to the foreign holding company on cost-to-cost basis.

However, ***in cases where an additional amount over and above the cost of securities/shares*** is charged by the foreign holding company from the domestic subsidiary company, by whatever name called, GST would be leviable on such additional amount charged as consideration for the supply of services of facilitating/ arranging the transaction in securities/ shares by the foreign holding company to the domestic subsidiary company. ***The GST shall be payable by the domestic subsidiary company on reverse charge basis in such a case on the said import of services.***

(https://taxinformation.cbic.gov.in/view-pdf/1003208/ENG/Circulars)

8. Circular No. 214/8/2024-GST dated June 26, 2024 - *Clarification on the requirement of reversal of input tax credit in respect of the portion of the premium for life insurance policies which is not included in taxable value.*

It is clarified in circular that the amount of the premium for taxable life insurance policies, which is not included in the taxable value as determined under rule 32(4) of CGST Rules, cannot be considered as pertaining to a non-taxable or exempt supply and therefore, there is no requirement of reversal of input tax credit as per provisions of Rule 42 or rule 43 of CGST Rules, read with sub-section (1) and sub-section (2) of Section 17 of CGST Act, in respect of the said amount.

(https://taxinformation.cbic.gov.in/view-pdf/1003207/ENG/Circulars)

9. Circular No. 215/9/2024-GST dated June 26, 2024- *clarification on taxability of salvage/ wreck value earmarked in the claim assessment of the damage caused to the motor vehicle.*

Issue - Whether the insurance company is liable to pay GST on the salvage/ wreckage value earmarked in the claim assessment of the damage caused to the motor vehicle?

Clarification - In cases where due to the conditions mentioned in the contract itself, general insurance companies are deducting the value of salvage as deductibles from the claim amount, **the salvage remains the property of insured and insurance companies are not liable to discharge GST liability on the same.**

However, in cases, where the insurance claim is settled on full claim amount, without deduction of value of salvage/ wreckage (as per the terms of the contract), the salvage becomes the property of the insurance company and the insurance company will be *obligated to discharge GST on supply of salvage to the salvage buyer.*

(https://taxinformation.cbic.gov.in/view-pdf/1003206/ENG/Circulars)

10. Circular No. 216/10/2024-GST dated June 26, 2024 -*clarification in respect of GST liability and input tax credit (ITC) availability in cases involving Warranty/ Extended Warranty, in furtherance to Circular No. 195/07/2023-GST dated 17.07.2023.*

Issue 1 - Clarification regarding GST liability as well as liability to reverse input tax credit in respect of cases where goods as such or the parts are replaced under warranty.

Clarification: It is clarified that the clarification provided in Para 2 of the said circular is also applicable in case where the goods as such are replaced under warranty. Accordingly, wherever, 'any part,' 'parts' and 'part(s)' has been mentioned in Para 2 of Circular No. 195/07/2023-GST dated 17.07.2023, the same may be read as 'goods or its parts, as the case may be'.

Issue 2 - In respect of cases where the distributor replaces the parts/ goods to the customer as part of warranty out of his own stock on behalf of the manufacturer and subsequently gets replenishment of the said parts/ goods from the manufacturer and he then provides the said goods or the parts, as the case may be, to the distributor through a delivery challan, without separately charging any consideration at the time of such replenishment.

Clarification - In such a case, no GST is payable on such replenishment of goods or the parts, as the case may be. Further, no reversal of ITC is required to be made by the manufacturer in respect of the goods or the parts, as the case may be, so replenished to the distributor.

Issue 3 – Nature of supply of extended warranty, at the time of original supply of goods, as a separate supply from supply of goods, if the supply of extended warranty is made by a person different from the supplier of the goods;

- **Nature of supply of extended warranty, made after original supply of goods:** The supply of extended warranty shall be treated as a supply of services distinct from the original supply of goods, and the supplier of the said extended warranty shall be liable to discharge GST liability applicable on such supply of services.

Certain changes have been made in circular195/07/2023-GST dated 17.07.2023 through this circular.

(https://taxinformation.cbic.gov.in/view-pdf/1003205/ENG/Circulars)

11. Circular No. 217/11/2024-GST dated June 26, 2024 - ***regarding the entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement.***

Issue 1. Whether ITC is available to insurance companies in respect of repair expenses reimbursed by the insurance company in case of reimbursement mode of claim settlement?

Clarification - It is clarified that **ITC is available to Insurance Companies** in respect of motor vehicle repair expenses incurred by them in case of reimbursement mode of claim settlement.

Issue 2. Where the invoice raised by the garage also includes an amount in excess of the approved claim cost by insurance company What is the extent of ITC available to the insurer in such cases?

Clarification –

- If the two separate invoices in respect of the repair services one to the insurance company in respect of approved claim cost and second to the customer for the amount of repair service in excess of the approved claim cost - ITC available to the extent invoice issued to insurance co. subject to reimbursement of said amount to customer
- If invoice for full amount for repair services is issued to the insurance company while the insurance company makes reimbursement to the insured only for the approved claim cost, then, the input tax credit may be available only to the extent of reimbursement of the approved claim cost to the insured, and not on the full invoice value to insurance company

Issue 3. Whether ITC is available to the insurer where the invoice for the repair of the vehicle is not in name of the insurance company

Clarification -ITC will not be available as condition of clause (a) and (aa) of section 16(2) of CGST Act is not satisfied.

(https://taxinformation.cbic.gov.in/view-pdf/1003204/ENG/Circulars)

12. Circular No.218/12/2024-GST dated June 26, 2024 - ***clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person.***

Issue - Whether the activity of providing loans by an overseas affiliate to its Indian affiliate or by a person to a related person, where there is no consideration in the nature of processing fee/ administrative charges/ loan granting charges etc., and the consideration is represented only by way of interest or discount, will be treated as a taxable supply of service under GST or not.

Clarification - It cannot be said that any supply of service is being provided between the said related persons in the form of processing/ facilitating/ administering the loan, by deeming the same as supply of services as per section 7(1)(c) of the CGST Act, read with S. No. 2 and S. No. 4 of Schedule I of CGST Act. *Accordingly, there is no question of levy of GST on the same by resorting to open market value for valuation of the same as per rule 28 of Central Goods and Services Tax Rules, 2017.*

However, in cases of loans provided between related parties, wherever any fee in the nature of processing fee/ administrative charges/ service fee/ loan granting charges etc. is charged, over and above the amount charged by way of interest or discount, the same may be considered to be the consideration for the supply of services of processing/ facilitating/ administering of the loan, which will be **liable to GST as supply of services by the lender to the related person availing the loan.**

(https://taxinformation.cbic.gov.in/view-pdf/1003203/ENG/Circulars)

13. Circular No. 219/13/2024-GST dated June 26, 2024 - ***Clarification on availability of input tax credit on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5) of the CGST Act, 2017.***

Issue - Whether the ITC on the ducts and manholes used in network of optical fiber cables (OFCs) for providing telecommunication services is barred in terms of section 17(5)(c) and (d) of the CGST Act, read with Explanation to section 17 of CGST Act?

Clarification - It is clarified that availment of **ITC is not restricted** in respect of such ducts and manhole used in network of optical fiber cables (OFCs), either under clause (c) or under clause (d) of sub-section (5) of section 17 of CGST Act.

(https://taxinformation.cbic.gov.in/view-pdf/1003202/ENG/Circulars)

14. Circular No 220/14/2024-GST dated June 26, 2024 - ***Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors.***

Issue -Whether the activity of providing Custodial Services by banks or financial institutions to FPIs will be treated as services provided to 'account holder' under Section 13(8)(a) of the IGST Act, 2017? Further, how the place of supply of the said services shall be determined?

Clarification - It is clarified that the custodial services provided by banks or financial institutions to FPIs are ***not to be treated as services provided to 'account holder' and therefore, the said services are not covered under Section 13(8)(a) of the IGST Act.*** Therefore, the place of supply of such services is not to be determined under Section 13(8)(a) of the IGST Act but has to be determined under the default provision i.e., sub-section (2) of section 13 of the IGST Act.

(https://taxinformation.cbic.gov.in/view-pdf/1003201/ENG/Circulars)

15. Circular No.-221/15/2024-GST dated June 26, 2024- ***clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model.***

Issue - Under HAM model of NHAI, the concessionaire has to construct the new road and provide Operation & Maintenance of the same which is generally over a period of 1517 years and the payment of the same is spread over the years. What is the time of supply for the purpose of payment of tax on the said service under the HAM model?

Clarification - It is clarified that the tax liability on the concessionaire under the HAM contract, including on the construction portion, would arise at the time of issuance of invoice, or receipt of payments, whichever is earlier, if the invoice is issued on or before the specified date or the date of completion of the event specified in the contract, as applicable.

If invoices are not issued on or before the specified date or the date of completion of the event specified in the contract, tax liability would arise on the date of provision of the said service (i.e., the due date of payment as per the contract), or the date of receipt of the payment, whichever is earlier.

It is also clarified that as the instalments/annuity payable by NHAI to the concessionaire also includes some interest component, the amount of such interest shall also be includible in the taxable value for the purpose of payment of tax on the said annuity/instalment in view of the provisions of section 15(2)(d) of the CGST Act.

16. Circular No. 222/16/2024-GST dated June 26, 2024 - *clarification on time of supply of services of spectrum usage and other similar services under GST.*

Issue - In cases of spectrum allocation where the successful bidder (i.e. the 'telecom operator') opts for making payments in instalments as mentioned in the Notice Inviting Application (NIA) and Frequency Assignment Letter (FAL) issued by Department of Telecommunications (DoT), Government of India, what will be the time of supply for the purpose of payment of GST on the said supply of spectrum allocation services.

Clarification - it is clarified that in case where full upfront payment is made by the telecom operator, GST would be payable when the payment of the said upfront amount is made or is due, whichever is earlier, whereas in case where deferred payment is made by the telecom operator in specified instalments, GST would be payable as and when the payments are due or made, whichever is earlier.

It is also clarified that the similar treatment regarding the time of supply, may apply in other cases also where any natural resources are being allocated by the government to the successful bidder/ purchaser for right to use the said natural resource over a period of time, constituting continuous supply of services as per the definition under section 2(33) of the CGST Act, with the option of payments for the said services either through an upfront payment or in deferred periodic instalments over the period of time.

(https://taxinformation.cbic.gov.in/view-pdf/1003199/ENG/Circulars)

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