

**Circulars Issued
Pursuant to
Recommendations of
53rd GST Council
Meeting**



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Circular No	Description
211/5/2024-GST	Clarification on time limit under Section 16(4) of CGST Act in respect of RCM supplies received from unregistered persons.
210/4/2024-GST	Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit (ITC).
219/13/2024-GST	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
207/1/2024-GST	Fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court
220/14/2024-GST	Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors
213/07/2024-GST	Seeking clarity on taxability of re-imbursement of securities/shares as SOP/ESPP/RSU provided by a company to its
214/8/2024-GST	Clarification on the requirement of reversal of ITC in respect of the portion of the premium for life insurance policies which is not included in taxable value.
215/9/2024-GST	Clarification on taxability of wreck and salvage values in motor insurance claims.

Circular No	Description
216/10/2024-GST	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
217/11/2024-GST	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
218/12/2024-GST	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.
221/15/2024-GST	Time of supply on Annuity Payments under HAM Projects
222/16/2024-GST	Time of supply in respect of supply of allotment of Spectrum to Telecom companies.
209/3/2024-GST	Clarification on the provisions of clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to place of supply
212/6/2024-GST	Clarification on mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers
208/2/2024-GST	Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities.

Time limit u/s 16 (4) in respect of RCM supplies received from unregistered persons

**Circular No. 211/05/2024-GST
dt. 26.06.2024**



Time limit u/s 16(4) in respect of RCM supplies received from unregistered persons

- **Issue:** Which of the following should be considered as relevant year for the purpose of calculating the time limit under Section 16(4) in respect of RCM supplies received from unregistered persons:
 - Relevant year in which the said supply was received **or**
 - Relevant year in which self-invoice has been issued by the recipient as per Section 31(3)(f).
- **Clarification:** The relevant FY for the purpose of calculating time limit for availment of ITC under Section 16(4) **shall be the FY in which self-invoice has been issued by the recipient,** and ITC can be availed subject to fulfilment of other conditions and restrictions of Section 16 and 17.
- In case, the recipient issues the self-invoice **after the time of supply** of the said supply and pays tax accordingly, **applicable interest shall be payable** on such delayed payment of tax and **may also be liable to penal action** under Section 122 on account of delayed issuance of invoice.

Valuation of supply of import of services by a related person where recipient is eligible to full ITC

***Circular No. 210/04/2024-GST
dt. 26.06.2024***



Valuation of supply of import of services by a related person where recipient is eligible to full ITC

- **Issue:** Valuation mechanism in respect of supply of import of services by a related person where recipient is eligible to full input tax credit
- **Clarification:** The value of supply of import of services from foreign affiliate declared in the self-invoice by the related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.
- Further, in case full ITC is available and no self-invoice is issued by the related domestic entity with respect to import of service from foreign affiliate, 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.
- The above clarification has been issued to provide same treatment, which is being given to domestic related parties/ distinct persons transactions as per clarification provided vide Circular No. 199/11/2023-GST dated 17.07.2023, in respect of import of services between related persons where full ITC is available to the said recipient located in India.

Availability of ITC on ducts and manholes used in Optical Fiber Cables (OFC's)

**Circular No. 219/13/2024-GST
dated 26.06.2024**



- **Issue:** Whether ITC on ducts and manholes used in OFCs is blocked under Section 17(5) of the CGST Act.
- **Clarification:** Ducts and manholes are basic components for OFC which are necessary for laying OFCs and its maintenance.
- Further, ducts and manholes have also not been specifically excluded from the definition of the term 'plant and machinery'.
- Accordingly, it has been clarified that ducts and manholes are **covered under the definition of "plant and machinery"** provided in explanation to Section 17 of the CGST Act.
- Therefore, ITC in respect of ducts and manholes used in OFCs is **eligible and not blocked under Section 17(5) of the CGST Act.**

**Monetary limits
fixed for filing
Departmental
appeals before
GSTAT, High
Courts and
Supreme Court**

***Circular No. 207/01/2024-GST
dt. 26.06.2024***



Monetary limits fixed for filing Departmental appeals before GSTAT, High Courts and Supreme Court

- **Clarification:** In line of recommendation of 53rd GST Council Meeting, circular is being issued, to exercise the power conferred under Section 120 of the CGST Act, to fix monetary limits for filing appeals by the Department before **GSTAT (Rs. 20 Lakhs or more)**, **High Courts (Rs. 1 Crore or more)**, and **Supreme Court (Rs. 2 Crore or more)** to reduce government litigations.

Scenarios	Conditions	*Monetary Limit for Filing Appeal
Single Order disposing one appeal/demand notice	▪ Demand pertains to tax with or without interest and penalty	Aggregate amount of tax (including all heads)
	▪ Demand pertains to interest/penalty/late fee	Amount of Interest/penalty/late fee
	▪ Demand pertains to interest, penalty, and/or late fee without tax	Aggregate amount of interest, penalty, and/or late fee
	▪ Demand pertains to erroneous refund	Amount of refund (including all heads)
Composite order disposing more than one appeal/ demand notice	Aggregate amount of total tax/interest/penalty/late fee of composite order instead of individual order	

Monetary limits fixed for filing Departmental appeals before GSTAT, High Courts and Supreme Court

Non-applicability of 'Monetary Limit'

- Where any provision/rules/regulations/order/notification/instruction/circular of the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act has been held to be ultra vires to the Constitution of India or Parent Act;
- Where matter is related to Valuation/Classification/Refunds/Place of Supply which is recurring in nature/involves interpretation of law;
- Where strictures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers;
- Where in the opinion of the Board, it is necessary to contest in the interest of justice or revenue.

Points to be considered while taking decision regarding filing of departmental appeal:

- No Appeal should be filed merely because the disputed tax amount involved in a case exceeds the monetary limits, rather filing of appeal should be decided on merits of each case.
- Non-filing of appeal based on the monetary limits, shall not preclude the tax officer 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.

**Place of Supply
(POS) for
custodial services
provided by banks
to Foreign
Portfolio Investor**

**Circular No. 220/14/2024-GST
dated 26.06.2024**



- **Issue:** Whether POS for custodial services provided by banks to Foreign Portfolio Investor should be determined as per the provisions of Section 13(8)(a) of the IGST Act which provides for POS in case of services supplied by a banking company or financial institution or a non-banking financial company to account holders.
- **Clarification:** Drawing inference from the similar provisions of Rule 9(a) of the Service Tax Place of Provisions of Supply Rules, 2012 read with the clarification given in the Education Guide under Service Tax Regime, it has been clarified that **custodial services provided by banks to Foreign Portfolio Investors (FPI's) are not to be treated as services provided to 'account holder'.**
- Therefore, it has been clarified that **POS in the said case should be determined by the default provisions** of POS laid down under Section 13(2) of the IGST **and not as per the provisions of Section 13(8)(a) of the IGST Act.**

**Taxability of
ESOP/ESPP/RSU
provided by a
company to its
employees
through its
overseas holding
company**

***Circular No. 213/07/2023- GST
dt. 26.06.2024***



- **Issue:** Whether transfer of shares/ securities under Employee Stock Option (ESOP)/Employee Stock Purchase Plan (ESPP)/ Restricted Stock Unit (RSU) by the foreign holding company directly to the employees of the Indian subsidiary company and subsequent re-imburement of the cost of such shares/ securities by the Indian subsidiary company to the foreign holding company can be considered as import of financial services by the Indian subsidiary company from the foreign holding company and whether the same can be considered as liable to GST in the hands of Indian subsidiary company on reverse charge basis.
- **Clarification:** There is no supply of service where 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, 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 and GST shall be payable under RCM on the said import of services.

No ITC reversal on premium portion of life insurance policies not included in taxable value

***Circular No. 214/08/2024-GST
dt. 26.06.2024***



No ITC reversal on premium portion of life insurance policies not included in taxable value

- **Issue:** Whether the amount of insurance premium, which is not included in the taxable value as per Rule 32(4) shall be treated as non-taxable supply/ exempt supply for the purpose of reversal of ITC as per Section 17(1) of read with Rule 42 & 43.
- **Clarification:** The amount of the premium for taxable life insurance policies, which is not included in the taxable value as determined under Rule 32(4), cannot be considered as pertaining to a non-taxable or exempt supply and therefore, **there is no requirement of reversal of ITC** as per provisions of Section 17(1) of read with Rule 42 & 43.

**Taxability of
salvage/ wreck
value earmarked
in the claim
assessment of the
damage caused to
the motor vehicle**

***Circular No. 215/09/2024-GST
dt. 26.06.2024***



Taxability of salvage/ wreck value earmarked in claim assessment of the damage caused to the motor vehicle

- **Issue:** Whether, in case of motor vehicle insurance, GST is payable by the insurance company on salvage/ wreckage value earmarked in the claim assessment of the damage caused to the motor vehicle?

Scenario	Clarification
Insurance company's pays insured declared value less salvage value	<ul style="list-style-type: none">▪ The deduction of the value of salvage from the insurance settlement amount, is as per the terms of the insurance contract, and cannot be said to be consideration for any supply being made by insurance company.▪ The salvage remains the property of insured and insurance companies are not liable to discharge GST liability on the same.
Insurance company's pays insured declared value without deducting salvage value	<ul style="list-style-type: none">▪ The salvage becomes the property of Insurance Company after settling the claim for the full amount and the insurance company is obligated to deal with the same or dispose of the same.▪ In such cases, the outward GST liability on disposal/sale of the salvage is to be discharged by the insurance companies.

GST liability and ITC availability in cases involving Warranty/ Extended Warranty

***Circular No. 216/10/2024- GST
dt. 26.06.2024***



GST liability and ITC availability in cases involving Warranty/ Extended Warranty

- **Issue:** Earlier, *Circular No. 195/07/2023-GST dated 17.07.2023* (**'Circular 1'**) clarified certain issues regarding taxability and availability of ITC i.r.o. warranty replacement of parts and repair services during warranty period. Now, vide *Circular No. 216/10/2023- GST dt. 26.06.2024* (**'Circular 2'**) some more clarification in this regard has been provided.

Circular 1

Circular 2

Replacement of 'parts or goods' under warranty by manufacturer

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| <ul style="list-style-type: none">▪ In this case, it was clarified that 'No' GST is payable as original supply includes cost of replacements/repairs and 'No' ITC is liable to be reversed if no consideration charged. However, GST is payable if consideration is charged. | <ul style="list-style-type: none">▪ It is clarified that the previous clarification is applicable to not only parts but cases where the <u>goods as such</u> are replaced under warranty. |
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Circular 1

Replacement of 'parts or goods' under warranty by distributor

- Earlier, taxability of parts and availment of ITC was clarified for following specific scenarios:
 - Distributor replaces the parts to the customer under warranty either by using his stock or by purchasing from a third party and raises invoice to manufacturer
 - Distributor raises a requisition to the manufacturer for the parts to be replaced by him under warranty
 - Distributor replaces the parts to the customer under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced

Circular 2

- Now, clarification has been given for a scenario where distributor replaces the goods to the customer as part of warranty **out of his own stock** on behalf of the manufacturer to provide prompt service to the customer, and then raises a requisition to the manufacturer for the goods replaced by him under warranty.
- It is clarified that in such case **'No' GST is payable and 'No' ITC is liable to be reversed** by Manufacturer.

GST liability and ITC availability in cases involving Warranty/ Extended Warranty

Circular 1

Circular 2

Extended Warranty

- | Circular 1 | Circular 2 |
|--|--|
| <ul style="list-style-type: none">It was clarified that contract of extended warranty entered into between customers and manufacturer <u>at the time of original supply of goods</u> would be treated as a composite supply of goods and GST Rate of 'Principal Supply' of Goods would be applicable on entire amount received. | <ul style="list-style-type: none">It is now clarified that where agreement for extended warranty is made at the time of original supply of goods, and the supplier of extended warranty is <u>different</u> from the supplier of goods, the <u>supply of extended warranty and supply of goods cannot be treated as the composite supply.</u>In such cases, supply of extended warranty will be treated as a <u>separate supply</u> from the original supply of goods. |
| <ul style="list-style-type: none">It was clarified that contract of extended warranty entered into <u>before expiry of warranty period</u> would be treated as a separate supply of service and rate of GST would be dependent upon nature of contract, viz., only replacement of parts or only repair service or both. | <ul style="list-style-type: none">Whether the goods will later on require replacement of parts or just repair service or neither during the extended warranty period, is not known at the time of sale/ supply of extended warranty.Therefore, it is now clarified that, in such case, rate of <u>GST will be applicable treating the same as supply of services only.</u> |

Entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles

***Circular No. 217/11/2024- GST
dt. 26.06.2024***



Entitlement of ITC by insurance companies on expenses incurred for repair of motor vehicles

- **Issue:** Whether ITC of repair invoices should be available to the insurance companies in case of reimbursement of repair expenses of motor vehicle?

Scenario	Clarification
Claim is settled through reimbursement rather than cashless mode	<ul style="list-style-type: none">▪ ITC is available to Insurance Companies.
Reimbursement is made only of approved claim cost after standard deductions, e.g., depreciation, improvements outside coverage etc.	<ul style="list-style-type: none">▪ Case#1: Garages issue invoice of only approved claim cost to the insurance companies and for amount in excess of approved claim, invoice is issued to the customer.<ul style="list-style-type: none">▪ ITC may be available to the insurance company on the said invoice issued to it, subject to reimbursement of said amount by insurance company to the customer.

Entitlement of ITC by insurance companies on expenses incurred for repair of motor vehicles

Scenario	Clarification
Reimbursement is made only of approved claim cost after standard deductions, e.g., depreciation, improvements outside coverage etc.	<ul style="list-style-type: none">▪ Case#2: Garages issue invoice of full amount of repairs to insurance companies but insurance company makes reimbursement to the insured only for the approved claim cost.<ul style="list-style-type: none">▪ ITC may be available to the insurance company <u>only to the extent of reimbursement of the approved claim cost</u> to the insured, and not on the full invoice value.
Where the invoice for the repair of the vehicle is not in name of the insurance company	<ul style="list-style-type: none">▪ In such a case, condition of clause (a) [receipt of invoice] and (aa) [reflection of invoice in GSTR-2B] of Section 16(2) of CGST Act is not satisfied.▪ Accordingly, ITC will not be available to the insurance company in respect of such an invoice.

**Taxability of
providing loan by
an overseas
affiliate to its
Indian affiliate or
by a person to a
related person**

***Circular No. 218/12/2024-GST
dt. 26.06.2024***



Taxability 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 will be treated as a taxable supply of service under GST?

Scenario	Clarification
No consideration in the nature of processing fee/ administrative charges/ loan granting charges etc. is charged, and the consideration is represented only by way of interest or discount on loan	<ul style="list-style-type: none">▪ In such cases, there may not be the activity of 'processing' the loan, and no administrative cost may be involved in granting such a loan.▪ Therefore, it is not desirable to place the services being provided for processing the loans by banks vis-a-vis the loans provided by a related on equal footing.▪ In this case, no supply of service is being provided in the form of processing/ facilitating/ administering the loan, therefore question of levying GST does not arise.
Any fee in the nature of processing fee/ administrative charges/ service fee/ loan granting charges etc. is charged, over and above interest or discount	<ul style="list-style-type: none">▪ 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 person availing the loan.

**Time of supply in respect of
supply of services of
construction of road and
maintenance thereof of
National Highway Projects
(NHP) of National Highways
Authority of India (NHAI) in
Hybrid Annuity Mode (HAM)
model**

**Circular No. 221/15/2024-GST dated
26.06.2024**



- **Issue:** Mechanism for determining TOS in respect of supply of services of construction of road and maintenance thereof of National Highway Projects (NHP) of NHAI in HAM model.
- **Clarification:** The supply of services of construction of road and maintenance thereof of NHP of NHAI in HAM model are to be treated as continuous supply of services as defined under Section 2(33) of the CGST Act.
- Accordingly, TOS should be determined as per the provisions of Section 13(2) of the CGST Act which state that TOS in case of continuous supply of services should be as under:
 - (a) Date of issue of Invoice, or date of receipt of payment, whichever is earlier, in cases where invoice is issued within the period prescribed under section 31 of CGST Act.
 - (b) date of provision of the service or date of receipt of payment, whichever is earlier, in cases where invoice is not issued within the period prescribed under section 31. Further, in case of continuous supply of services, the date of provision of service may be deemed as the due date of payment as per the contract.

Time of supply in respect of supply of services of spectrum usage and other similar services.

**Circular No. 222/16/2024-GST dated
26.06.2024**



Time of supply in respect of supply of services of spectrum usage and other similar services.



- **Issue:** Mechanism for determining TOS in respect of supply of services of spectrum usage and other similar services.
- **Clarification:** The GST is to be discharged on the supply of spectrum allocation services by the recipient of services (the telecom operator) on reverse charge basis (RCM) [Notification No. 13/2017-Central Tax (Rate) dated 28th June 2017 referred].
- The supply of services of spectrum allocation services is to be treated as continuous supply of services as defined under Section 2(33) of the CGST Act.
- Accordingly, TOS should be determined as per the provisions of Section 13(3) of the CGST Act read with Section 31(5)(a) of the CGST Act which state that TOS in case of RCM should be earlier of the following:
 - the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
 - the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.

Time of supply in respect of supply of services of TATTVAM spectrum usage and other similar services.

- The said provisions are **applicable in cases** where the successful bidder for spectrum allocation (i.e., the telecom operator) opts for making **payments in instalments under deferred payment option as per Frequency Assignment Letter (FAL)** issued by Department of Telecommunication (DoT), Government of India.
- Frequency Assignment Letter is in the nature of a bid acceptance document intimating the telecom operator that the result of the auction has been accepted by the competent authority and the details of blocks and spectrum allotted to the telecom operator. It also mentions the options and the amounts to be paid by the telecom operator.
- 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.

**Place of Supply of
Goods made to
unregistered
person where
billing address is
different from
delivery address**

***Circular No. 209/03/2024- GST dt.
26.06.2024***



Place of Supply of Goods made to unregistered person where billing address is different from delivery address



- **Issue:** 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
- **Clarification:** 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.**
- It is further clarified that 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.

Evidence of compliance of conditions of Section 15(3)(b)(ii)

***Circular No. 212/06/2023- GST
dt. 26.06.2024***



Evidence of compliance of conditions of Section 15(3)(b)(ii)

- **Issue:** Mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) i.e., the requirement of reversal of ITC by the recipient attributable to the discount.
- **Clarification:** Supplier may procure a certificate from recipient of supply, issued by a **CA/CMA**, certifying that the recipient has made the proportionate ITC reversal at his end in respect of credit note issued by the supplier. The CA/CMA certificate shall contain UDIN.
- If the tax amount in a Financial Year qua supplier **does not exceed Rs. 5,00,000/-, then an undertaking/ certificate from the said recipient** will suffice.
- Certificate/ Undertaking to include following:
 - Details of credit notes
 - Details of invoice against which said credit notes have been issued
 - Details of ITC reversed pertaining to said credit note along with details of mode of ITC reversal.
- This mechanism will be applicable till the time a functionality/facility is made available in this regard on the common portal.

Special procedure for the manufacturers of Pan-masala, Tobacco and other similar items

***Circular No. 208/02/2024- GST dt.
26.06.2024***



Special procedure for the manufacturers of Pan-masala, Tobacco and other similar items



- **Issue:** Special procedure for the manufacturers of Pan-masala, Tobacco and other similar items regarding furnishing details of Packing Machines, Special Monthly Statement & Certificate of Chartered Engineers in Form GST SRM-I/II.


Issue	Clarifications
▪ Non availability of make, model number and machine number of old packing machines including second-hand machines	Make and Model Number are optional, however Machine Number is mandatory. Year of purchase of the machine may be declared as the make number. Any numeric number assigned to machine by manufacturer may be declared as machine number.
▪ Non availability of electricity consumption rating of the packing machine	Certificate from Chartered Engineer certifying calculation of electricity consumption per hour of packing machine
▪ Value in case of goods having no MRP	Sale Price of the manufactured goods


Special procedure for the manufacturers of Pan-masala, Tobacco and other similar items


Issue	Clarifications
▪ Qualification and eligibility of the Chartered Engineer for providing Chartered Engineer certificate	Practicing Chartered Engineer having a certificate of practice from the Institute of Engineers India (IEI)
▪ Applicability of Special Procedure to the manufacturing units located in Special Economic Zone (SEZ)	Special Procedure is not applicable.
▪ Applicability of Special Procedure to the manual processes using electric operated heat sealer and seamer	Special Procedure is not applicable.
▪ Serial number of which machine is required to be declared where multiple machines are required for filling, capping and packing of containers	Machines used for final packing of the packages of the specified goods.
▪ Applicability of Special Procedure in case of Job-Work/Contract Manufacturing	Special Procedure is applicable to all persons involved in manufacturing process including a job worker / contract manufacturer (registered).

TATTVAM

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Thank You