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AMENDMENTS

For **MAY '2025 EXAMS**

CA Final

Paper - 5

Indirect Tax Laws

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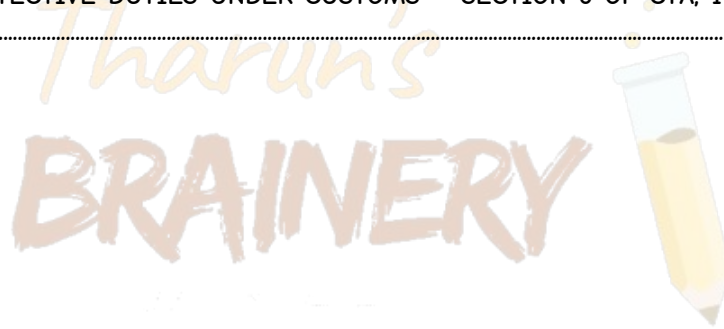
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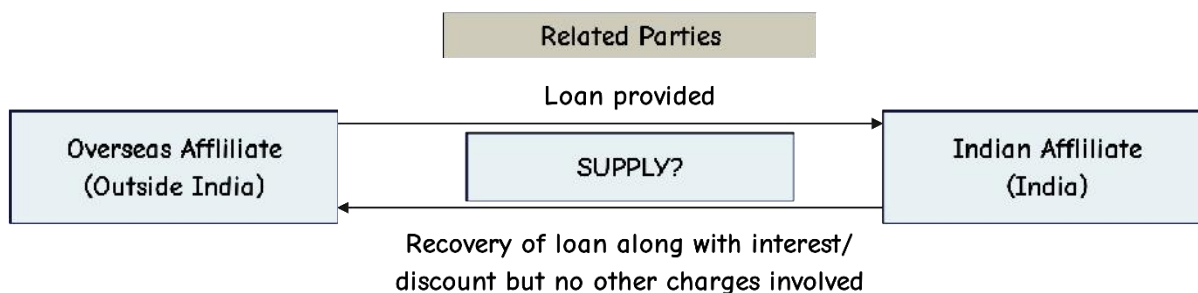
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SEGMENT - 2

SUPPLY, COMPOSITE & MIXED SUPPLY

CLARIFICATION REGARDING TAXABILITY OF THE TRANSACTION OF PROVIDING LOAN BY AN OVERSEAS AFFILIATE TO ITS INDIAN AFFILIATE OR BY A PERSON IN INDIA TO A RELATED PERSON – CBIC CIRCULAR¹:



- ▲ The loan between related parties, such as an Indian affiliate receiving a loan from an overseas affiliate, where the consideration is only in the form of interest or discount, will not be treated as a deemed supply of service under Section 7(1)(c) of the CGST Act, even though this section generally covers transactions between related parties.
- ▲ Since there are no processing fees or administrative charges, there is no need to determine an open market value as per Rule 28 of the CGST Rules, 2017.
- ▲ However, if any fees such as processing fees, administrative charges, or service fees are charged in addition to interest or discount, these fees will be treated as the consideration for a supply of service, which will attract GST and the value determined in terms of Rule 28 of CGST Rules, 2017 and in such case, GST is payable under RCM, being import of services.

CLARIFICATION ON TAXABILITY OF SALVAGE/ WRECK VALUE EARMARKED IN THE CLAIM ASSESSMENT OF THE DAMAGE CAUSED TO THE MOTOR VEHICLE – CBIC CIRCULAR²

Insurance companies offer services to insure motor vehicles against damages. When a motor vehicle is damaged, the insurance company is responsible for either repairing the vehicle or compensating the insured based on the insurance policy's terms. The compensation provided by the insurance company can be subject to deductibles, which are pre-agreed amounts that reduce the final claim payment.

GST Liability on Salvage Value: The circular addresses whether the insurance company is liable to pay GST on the salvage or wreckage value when assessing a claim for damage to a motor vehicle.

When Salvage Remains with the Insured:

- **Situation:** In some cases, according to the contract terms, the insurance company deducts the salvage value from the final claim amount. This means that the salvage or wreckage remains the property of the insured person (the vehicle owner), and the insurance company simply reduces the payout by the salvage value.

¹ Circular No.218/12/2024 - GST dt. 26.06.2024

² Circular No.-215/9/2024-GST dated 26.06.2024

- **GST Implication:** In this scenario, since the insurance company does not take ownership of the salvage, it is not considered a supply made by the insurance company. Therefore, the insurance company is **not liable** to discharge GST on the salvage value. The ownership and responsibility of the salvage remain with the insured.

When Salvage Becomes Property of the Insurance Company:

- **Situation:** In other cases, the insurance company settles the full claim amount without deducting the salvage value, meaning the salvage or wreckage becomes the property of the insurance company. The insurance company may then sell the salvage to a salvage buyer.
- **GST Implication:** When the insurance company takes ownership of the salvage and subsequently sells it, this transaction is considered a supply under GST law. Therefore, the insurance company **must discharge GST** on the sale of the salvage, as it is now a taxable supply made by the insurance company to the salvage buyer.

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SEGMENT - 3

LEVY AND COLLECTION UNDER CGST

NON-TAXABLE SUPPLY SCOPE EXPANDED TO INCLUDE ADDITIONAL GOODS – SEC. 9(1) OF CGST ACT/SEC. 5(1) OF IGST ACT – FINANCE ACT, 2024:

- Earlier, alcoholic liquor for human consumption is excluded from the ambit of GST.
- Owing to this amendment, at present, supply of alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption, are excluded from the ambit of GST.

Alcoholic Liquor for human consumption	Denatured Extra Neutral Alcohol	Rectified spirit used for manufacture of alcohol
		

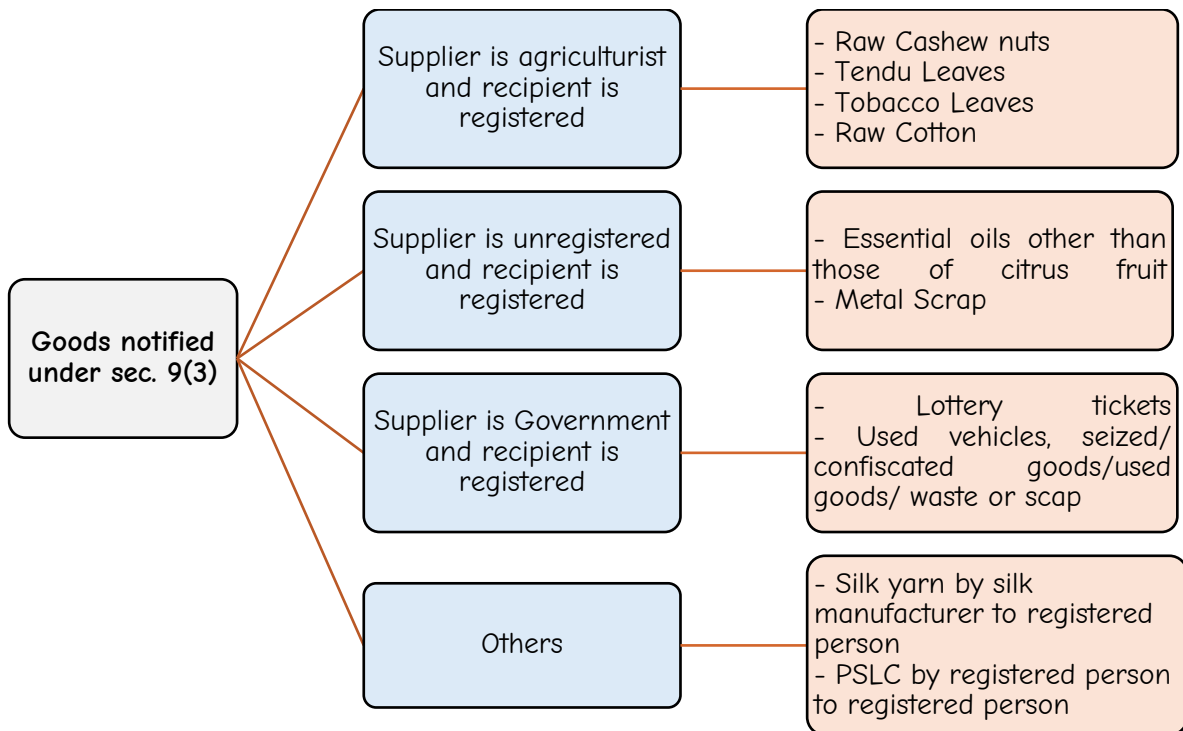
SALE OF METAL SCRAP COVERED UNDER RCM – SEC. 9(3) READ WITH NOTIFICATION NO. 4/2017³:

Description of supply of Goods	Supplier of goods	Recipient of supply
Metal Scrap	Any unregistered person	Any registered person

Note: Supply of metal scrap by registered person to registered person is not covered under RCM. However, the said transaction is notified for TDS u/s 51, where the recipient is required to deduct TDS @ 2% on the payment made to supplier.⁴

³ Notification No. 06/2024-Central Tax (Rate) dated 08.10.2024

⁴ Notification No. 25/2024 – Central Tax dated 09.10.2024



CLARIFICATION ON THE TAXABILITY OF ESOP/ESPP/RSU PROVIDED BY A COMPANY TO ITS EMPLOYEES THROUGH ITS OVERSEAS HOLDING COMPANY – CBIC CIRCULAR⁵

This circular clarifies the GST implications on transactions related to the allotment of securities or shares (such as Employee Stock Purchase Plans (ESPP), Employee Stock Option Plans (ESOP), or Restricted Stock Units (RSU)) from a foreign holding company to the employees of its domestic subsidiary company.

Employee Stock Plans (ESPP/ESOP/RSU)⁶:

Companies often incentivize their employees by allotting securities or shares as part of their compensation package. These schemes are commonly referred to as ESPP, ESOP, or RSU, depending on the specific terms agreed upon between the employer and the employee.

No Supply of Service in Cost-to-Cost Reimbursement:

- The circular clarifies that when a foreign holding company issues ESOPs, ESPPs, or RSUs to the employees of its domestic subsidiary, and the domestic subsidiary reimburses the cost of these securities or shares to the foreign holding company on a **cost-to-cost basis**, no supply of service is deemed to have taken place between the foreign holding company and the domestic subsidiary.
- As a result, in such scenarios, there is **no GST liability** on the reimbursement amount because it is considered merely a reimbursement of the actual cost of the securities/shares, with no profit element or additional charge involved.

⁵ Circular No.-213/07/2024-GST dated 26.06.2024

⁶ **ESPP** allows employees to buy company stock at a discount, often through payroll deductions. **ESOP** grants employees the option to purchase stock at a set price after a vesting period, incentivizing long-term employment.

RSU provides employees with shares that vest over time or based on performance, with the employee owning the shares outright once vested.

GST on Additional Charges:

- However, if the foreign holding company charges an amount **over and above** the cost of the securities/shares from the domestic subsidiary, by whatever name it is called (such as fees for facilitating or arranging the transaction), this additional amount is considered a supply of services.
- GST would be levied on this additional amount as it is treated as consideration for the supply of services by the foreign holding company to the domestic subsidiary.

Reverse Charge Mechanism:

- In cases where GST is applicable on the additional amount charged by the foreign holding company, the GST must be paid by the domestic subsidiary company under the **reverse charge mechanism**.
- The domestic subsidiary is required to pay GST on the import of services, which in this case is the additional amount charged for facilitating the ESOP/ESPP/RSU transaction.

RENTING OF PROPERTY COVERED UNDER RCM ⁷ – SEC. 9(3) READ WITH NOTIFICATION NO. 13/2017:

- Earlier renting of residential property to a registered person was covered under RCM.
- Now a new entry is made under RCM, where service by way of renting of any property other than residential dwelling by any unregistered person to any registered person is covered under RCM.

Notified service	Exemptions	Condition for RCM	Non applicability of RCM
R = Renting of property			
Residential	<ul style="list-style-type: none"> • Renting of residential property for residential purpose to an URP • Renting of residential property to a registered Individual for his family stay 	Recipient = RP (Whether renting is residential purpose or commercial purpose)	Renting of residential property for commercial purpose to an unregistered person
Commercial	Accommodation services for a minimum period of 90 days where the value of supply ≤ ₹20,000 per person per month	Supplier = URP Recipient = RP	If supplier is RP

⁷ Notification No. 09/2024-CT(Rate) dated 08.10.2024 (W.e.f 10.10.2024)

SEGMENT - 5

EXEMPTIONS UNDER GST

POWER NOT TO RECOVER GOODS AND SERVICES TAX NOT LEVIED OR SHORT-LEVIED AS A RESULT OF GENERAL PRACTICE – SEC. 11A OF CGST ACT/SEC. 6A OF IGST ACT – FINANCE ACT, 2024:

Notwithstanding anything contained in this Act, if the Government is satisfied that-

- (a) a practice was, or is, generally prevalent regarding levy of central tax (including non-levy thereof) on any supply of goods or services or both; and
- (b) such supplies were, or are, liable to, -
 - (i) central tax, in cases where according to the said practice, central tax was not, or is not being, levied, or
 - (ii) a higher amount of central tax than what was, or is being, levied, in accordance with the said practice, the Government may, on the recommendation of the Council, by notification in the Official Gazette, direct that the whole of the central tax payable on such supplies, or, as the case may be, the central tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the central tax was not, or is not being levied, or was, or is being, short-levied, in accordance with the said practice

Example,

A few years ago, **restaurant services** were charging a **service charge** as part of their bill, but they were not applying GST to it because of a common industry practice. The CBIC later clarified that GST should be levied on the entire bill, including service charges. Using this provision, the government could issue a notification that, as a general practice, as the restaurant are not charging GST on service charges, the GST on such service charges may be exempted.

GST EXEMPTION ON THE OUTWARD SUPPLIES MADE BY MINISTRY OF RAILWAYS (INDIAN RAILWAYS)⁸

Services provided by Ministry of Railways (Indian Railways) to individuals by way of -

- (a) sale of platform tickets;
- (b) facility of retiring rooms/waiting rooms;
- (c) cloak room services.
- (d) battery operated car services.

Services provided by one zone/division under Ministry of Railways (Indian Railways) to another zone(s)/division(s) under Ministry of Railways (Indian Railways).

⁸ Notification No. 04/2024-CT(R) dated 12.07.2024. (w.e.f 15/07/2024)

GST EXEMPTION ON THE TRANSACTIONS BETWEEN SPECIAL PURPOSE VEHICLES (SPVS) AND MINISTRY OF RAILWAYS (INDIAN RAILWAYS)⁹

Services provided by Special Purpose Vehicles (SPVs) to Ministry of Railways (Indian Railways) by way of allowing Ministry of Railways (Indian Railways) to use the infrastructure built and owned by them during the concession period against consideration

Services of maintenance supplied by Ministry of Railways (Indian Railways) to SPVs in relation to the said infrastructure built and owned by the SPVs during the concession period against consideration.

AMENDMENTS TO RENTING OF RESIDENTIAL DWELLING FOR USE AS RESIDENCE¹⁰

Entry No. 12	<p>Services by way of renting of residential dwelling for use as residence.</p> <p><u>Explanation – 1:</u> For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, (i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and (ii) such renting is on his own account and not that of the proprietorship concern.</p> <p><u>Explanation – 2: (Newly added)</u> Nothing contained in this entry shall apply to- (a) accommodation services for students in student residences; (b) accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like.</p>
Entry No. 12A (Newly added)	Supply of accommodation services having value of supply less than or equal to twenty thousand rupees per person per month provided that the accommodation service is supplied for a minimum continuous period of ninety days.

WHETHER GST IS PAYABLE ON STATUTORY COLLECTIONS MADE BY THE REAL ESTATE REGULATORY AUTHORITY (RERA) IN ACCORDANCE WITH THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016. – CBIC CIRCULAR¹¹

- Services provided by Governmental authority by way of any activity in relation to any function entrusted to a municipality/panchayat under article 243W/243G of the Constitution is exempted. (However, this exemption is not available to a Government entity)
- "Governmental Authority" means an authority or a board or any other body, (i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with 90 per cent or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article

⁹ Notification No. 04/2024-CT(R) dated 12.07.2024. (w.e.f 15/07/2024)

¹⁰ Notification No. 04/2024-CT(R) dated 12.07.2024. (w.e.f 15/07/2024)

¹¹ Circular No. 228/22/2024-GST dated 15.07.2024

243G of the Constitution. Eg: Chennai Metropolitan Development Authority (CMDA), National Highway Authority of India (NHAI), Greater Hyderabad Municipal Corporation (GMHC).

- Real Estate Regulatory Authority (RERA) is a Governmental authority, and the statutory collections made by RERA shall be covered under the exemption.

APPLICABILITY OF GST ON RETROCESSION SERVICES – CBIC CIRCULAR¹²

- **Retrocession** refers to a reinsurance transaction where a part of the assumed reinsured risk is further ceded to another Indian insurer or a **Cross Border Re-insurer (CBR)**. This essentially involves **reinsurers transferring risk** to another reinsurer, which is a common practice in the insurance industry to spread risk further.
- Certain specified **general insurance** and **life insurance schemes** (e.g., schemes like Pradhan Mantri Jeevan Jyoti Bima Yojana, Pradhan Mantri Suraksha Bima Yojana) are exempt from GST.
- **Reinsurance** for these exempted insurance schemes was also **exempted from GST**
- This Circular has now confirmed that the term '**reinsurance**' mentioned in **the exemption notification**, includes **retrocession services**. This means that **retrocession** services, which involve the reinsurer ceding a portion of their risk to another reinsurer, are **exempt from GST** under the same provisions that apply to **reinsurance** of specified insurance schemes.

EXEMPTION W.R.TO NOTIFIED SERVICES PROVIDED BY ELECTRICITY TRANSMISSION AND DISTRIBUTION UTILITIES¹³:

Supply of services by way of -

- providing metering equipment on rent,
- testing for meters/transformers/capacitors etc.,
- releasing electricity connection,
- shifting of meters/service lines, issuing duplicate bills etc.,

which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers, are exempted.

EXEMPTION W.R.TO RESEARCH AND DEVELOPMENT SERVICES¹⁴:

Research and development services against consideration received in the form of grants supplied by -

- a Government Entity; or
- a research association, university, college or other institution, notified under Sec. 35(1)(ii)/(iii) of Income Tax Act, 1961¹⁵.

Provided that the research association, university, college or other institution is so notified at the time of supply of the research and development service.

¹² Circular No. 228/22/2024-GST dated 15.07.2024

¹³ Notification No. 08/2024-CT (Rate) dated 08.10.2024 (W.e.f 10.10.2024)

¹⁴ Notification No. 08/2024-CT (Rate) dated 08.10.2024 (W.e.f 10.10.2024)

¹⁵ Contribution to Research association/college/university/other institution for scientific research & Contribution to Research association/College/university/other institution for statistical/social science – In both the cases 100% expenditure is allowed as deduction.

EXEMPTION W.R.TO AFFILIATION SERVICES BY EDUCATIONAL BOARD¹⁶:

Services of affiliation provided

- BY a Central or State Educational Board or Council or any other similar body, by whatever name called,
- TO a school established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity is exempted.

AMENDMENT TO EXEMPTION W.R.TO SERVICES PROVIDED BY SKILL BODIES¹⁷:

Any services provided by –

- a) the National Skill Development Corporation set up by the Government of India.
- b) the National Council for Vocational Education and Training.
- c) an Awarding Body recognized by the National Council for Vocational Education and Training.
- d) an Assessment Agency recognized by the National Council for Vocational Education and Training.
- e) a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training.

In relation to -

- (i) the National Skill Development Programme or any other scheme implemented by the National Skill Development Corporation; or
- (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or
- (iii) any National Skill Qualification Framework aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.

Note: "National Council for Vocational Training" is replaced with "National council for Education and Training"

EXEMPTION W.R.TO IMPORT OF SERVICES BY AN AIRLINE COMPANY¹⁸:

The exemption applies to import of services by an establishment of a foreign airline company in India from a related person or from any of its other foreign establishments, provided there is no consideration involved.

Conditions for Exemption to Apply:

- **Condition (a):** The Indian establishment of the foreign airline company must pay GST at applicable rates for the transport of goods or passengers, as applicable, which means that regular taxable supplies like air travel services or cargo services continue to be subject to GST.
- **Condition (b):** The Ministry of Civil Aviation must certify that the Indian establishment of the foreign airline is indeed part of an airline company designated by the foreign government under a bilateral air services agreement with India. This confirms the reciprocal nature of the agreement between India and the foreign country.

¹⁶ Notification No. 08/2024-CT (Rate) dated 08.10.2024 (W.e.f 10.10.2024)

¹⁷ Notification No. 08/2024-CT (Rate) dated 08.10.2024 (W.e.f 10.10.2024)

¹⁸ Notification No. 08/2024 – Integrated tax (Rate) dt: 08.10.2024 (w.e.f 10.08.2024)

- Condition (c): The Ministry of Civil Aviation must also certify that the foreign government does not levy similar taxes on Indian airlines in its jurisdiction for the same services. This ensures reciprocity, where foreign airlines in India enjoy tax relief if Indian airlines are exempt from similar levies abroad.

Note: For the purposes of this exemption, a foreign company is defined as per Section 2(42) of the Companies Act, 2013. This includes any company or body corporate incorporated outside India but with a place of business within India.



SEGMENT - 6

TIME OF SUPPLY

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 - CBIC CIRCULAR¹⁹

This circular provides clarification on the GST implications for Hybrid Annuity Model (HAM) contracts, which involve the construction, operation, and maintenance of highways.

Hybrid Annuity Model (HAM): A HAM contract is a single, integrated contract where the concessionaire (the contractor) is responsible for both the construction of a highway and its operation and maintenance (O&M) over a specified period.

Continuous Supply of Services: Given that the concessionaire is required to perform services over an extended period, with payments made in instalments, the contract is treated as a "continuous supply of services" under section 2(33) of the CGST Act.

Due date of invoice: As per Sec. 31(5) of the CGST Act

- If due date of instalment is ascertainable from the contract, then the due date of such instalment.
- If payment is linked to completion of event, then date of completion of such event.
- In the absence of above, then the date on which such instalment is received.

Time of Supply of Services: Determined as per Sec. 13(2) of CGST Act, 2017

- ▲ Invoice date or payment date, whichever is earlier, if invoice is issued within the due date
- ▲ Completion date or payment date, whichever is earlier, if invoice not issued within the due date

Inclusion of Interest in Taxable Value: The instalments or annuities paid by the National Highways Authority of India (NHAI) to the concessionaire may include an interest component. As per section 15(2)(d) of the CGST Act, any interest amount included in the instalments or annuities is also considered part of the taxable value for GST purposes. Therefore, GST must be paid on the entire instalment amount, including the interest component.

¹⁹ Circular No. 221/15/2024- GST dt. 26.06.2024

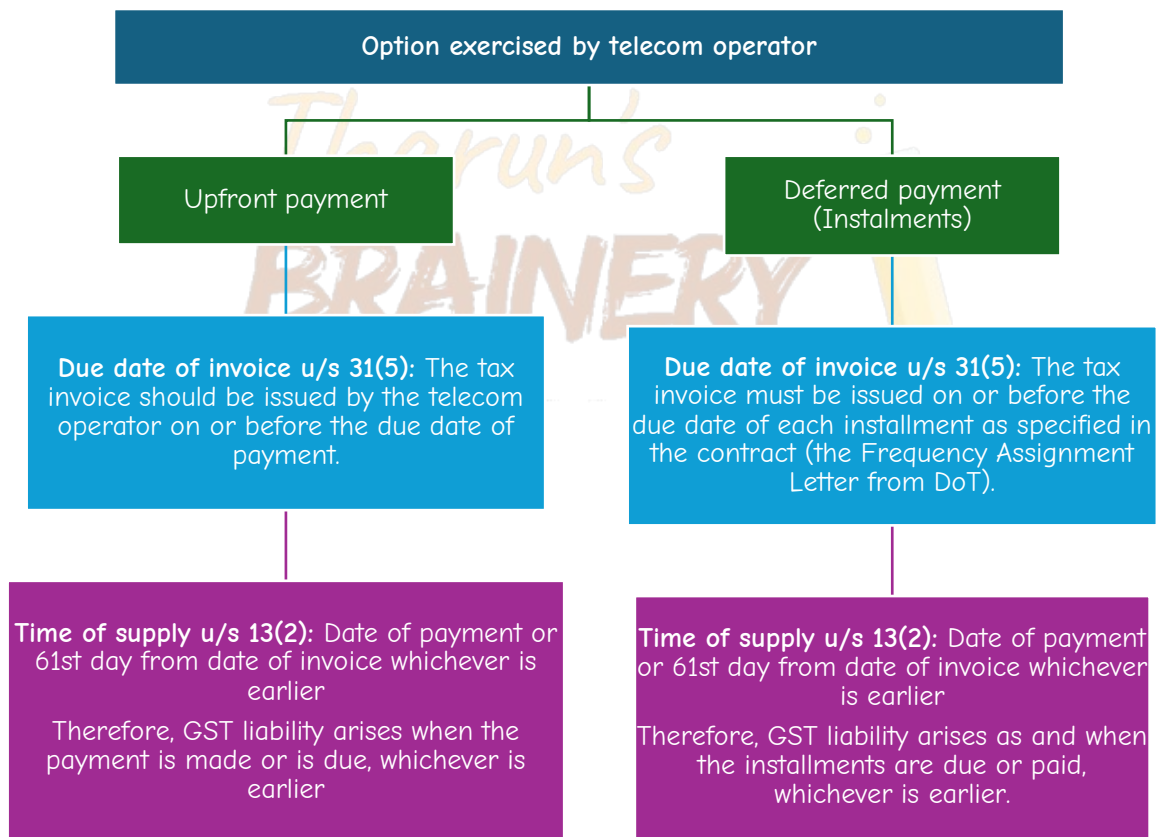
CLARIFICATION ON TIME OF SUPPLY OF SERVICES OF SPECTRUM USAGE AND OTHER SIMILAR SERVICES UNDER GST – CBIC CIRCULAR²⁰

This circular provides clarification on the GST implications for the allocation of spectrum (and similar natural resources) by the Government of India, specifically the Department of Telecommunications (DoT), to telecom operators.

Spectrum Allocation Model: The Government, through DoT, allocates spectrum to telecom operators. The telecom operators secure the right to use the spectrum by bidding for it, and they may choose to pay for the spectrum either upfront or in installments over a specified period.

Continuous Supply of Services: The supply of spectrum is considered a "continuous supply of services" as defined under section 2(33) of the CGST Act because it involves an agreement for the Government to provide the spectrum usage continuously over a period exceeding three months, with periodic payment obligations.

Reverse Charge Mechanism: The GST liability on the spectrum allocation services provided by the Government (DoT) to the telecom operators is to be discharged by the telecom operators under the reverse charge mechanism. This means that the telecom operator (the recipient of the service) is responsible for paying the GST, not the Government.



Extension to Other Resources: Similar treatment applies to other natural resources allocated by the Government.

²⁰ Circular No.-222/16/2024-GST dated 26.06.2024

SEGMENT - 7

PLACE OF SUPPLY

CLARIFICATION REGARDING PLACE OF SUPPLY OF GOODS TO UNREGISTERED PERSONS – CBIC CIRCULAR²¹:

Clause (ca) of Section 10(1) of the Integrated Goods and Services Tax (IGST) Act, 2017, was inserted with effect from 1st October 2023. This clause specifically deals with the determination of the place of supply of goods when the supply is made to an unregistered person, such as in e-commerce transactions. The clause serves as a non-obstante provision, meaning it overrides the general provisions related to the place of supply of goods as stated in clauses (a) and (c) of Section 10(1) of the IGST Act.

Determination of Place of Supply:

- When goods are supplied to a person other than a registered person (typically an unregistered individual or consumer), the place of supply is generally determined based on the location of recipient in the records of supplier. In the absence of such details, POS shall be location of supplier.
- **Clarification provided:**
 - **Billing Address and Delivery Address Match:** If the billing address and delivery address match, the place of supply is determined as per the address recorded on the invoice.
 - **Different Billing and Delivery Addresses:** If the billing address and the delivery address are different, the place of supply is determined by the delivery address recorded on the invoice.

Explanation of Recording the Address:

- The clause clarifies that recording the name of the State of the unregistered person on the invoice is sufficient for it to be considered as recording the address of the recipient.

Scenario:

Mr. A, an unregistered person located in State X, places an order on an e-commerce platform for a mobile phone, which is to be delivered to an address in State Y. Mr. A provides a billing address in State X when placing the order.

Question: What would be the place of supply for this transaction—the billing address (State X) or the delivery address (State Y)?

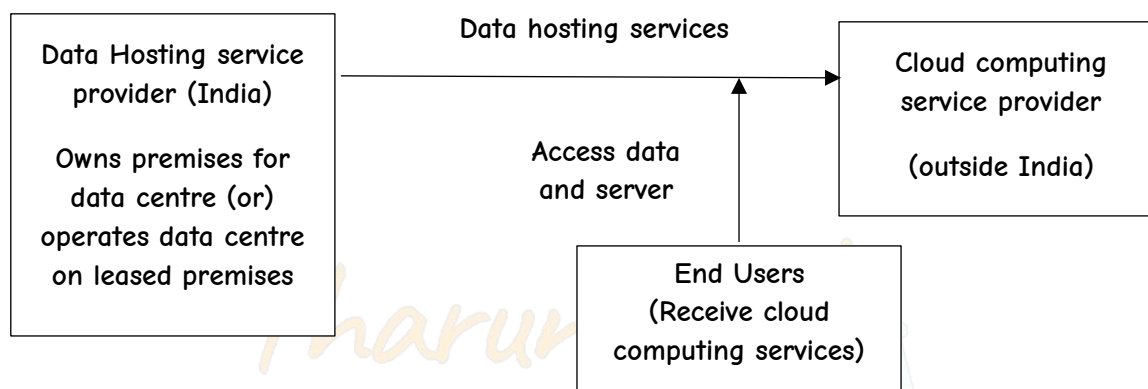
Clarification:

- **Place of Supply:** In this scenario, since the delivery address is different from the billing address, the place of supply, according to Clause (ca) of Section 10(1), will be the location where the goods are delivered, i.e., State Y.
- **Invoice Requirement:** The supplier (the e-commerce platform or seller) may record the delivery address (State Y) as the address of the recipient on the invoice to determine the correct place of supply.

²¹ Circular No. 209/3/2024- GST dated 26.06.2024

Practical Implications:

- **GST Liability:** The GST will be applied based on the place of supply, which in this case is State Y. This is crucial for determining whether Central GST (CGST) and State GST (SGST) or Integrated GST (IGST) should be levied.
- **Compliance for E-commerce Platforms:** E-commerce platforms need to ensure that their billing systems correctly capture the delivery address as the place of supply when it differs from the billing address to apply the correct GST

CLARIFICATION ON PLACE OF SUPPLY OF DATA HOSTING SERVICES PROVIDED BY SERVICE PROVIDERS LOCATED IN INDIA TO CLOUD COMPUTING SERVICE PROVIDERS LOCATED OUTSIDE INDIA²²:


Question involved: How to determine the place of supply?

Issue 1 - Whether services provided by data hosting service provider, qualifies as "intermediary services"?

Issue 2 - Whether services provided by data hosting service provider, qualifies as "performance-based services in relation to goods, where physical presence of such goods are required"?

Issue 3 - Whether services provided by data hosting service provider, qualifies as "services in relation to immovable property"?

- The data hosting service provider provides data hosting services to the cloud computing service provider on principal-to-principal basis on his own account and is not acting as a broker or agent for facilitating supply of service between cloud computing service providers and their end users/consumers. Therefore, it is not "intermediary services". Accordingly, POS cannot be determined under Sec. 13(8)(b) of IGST Act, 2017 i.e., Location of supplier.
- In some cases, some of the hardware required for data hosting service is provided by the recipient of the service, i.e., the cloud computing service provider to the data hosting service provider. Even in these cases, data hosting service provider handles all aspects of data centre, like arranging for the premises, making available software and other hardware infrastructure, power, net connectivity, security, human resource, maintenance etc., for providing data hosting services to the cloud computing service provider. Accordingly, in such cases, though the data hosting services is being provided by the data hosting service provider inter-alia using the hardware made available by the cloud computing service provider, it cannot be said that "data hosting service are being provided in relation to the

²² Circular No. 232/26/2024-GST dt. 10.09.2024

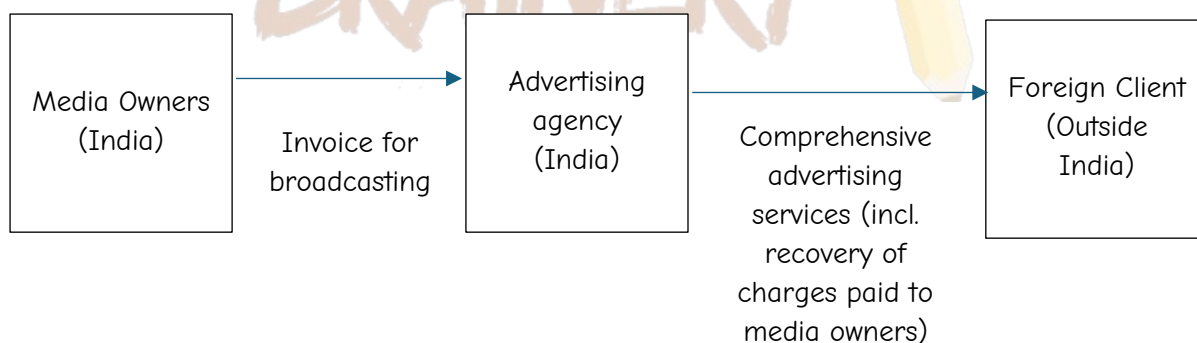
said goods made available by the cloud computing service provider to them". Accordingly, POS cannot be determined under Sec. 13(3)(a) of IGST Act, 2017. i.e., location where services are actually performed.

- Data hosting services are not passive supply of a service directly in respect of immovable property but are regarding supply of a comprehensive service related to data hosting which involves the supply of various services by the data hosting service provider like operating data centre, ensuring uninterrupted power supplies, backup generators, network connectivity, backup facility, firewall services, and monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc. which are essential for cloud computing service provider to provide cloud computing services to the end users/customer/subscribers. It is clarified that in such a scenario, the data hosting services cannot be considered as the "services provided directly in relation to immovable property or physical premises and hence, the place of supply of such services cannot be determined under section 13(4) i.e., Location of immovable property.

Conclusion:

Therefore, the place of supply in such cases needs to be determined according to the default provision under section 13(2) of the IGST Act, i.e. the location of the recipient of the services. Accordingly, supply of data hosting services being provided by a data hosting service provider located in India to an overseas cloud computing entity can be considered as export of services, subject to the fulfilment of the other conditions mentioned in section 2(6) of IGST Act.

CLARIFICATION IN RESPECT OF ADVERTISING SERVICES PROVIDED TO FOREIGN CLIENTS²³:



Question involved: How to determine the place of supply w.r.to services provided by Advertising agency in India?

Issue 1 - Whether services provided by advertising agency, qualifies as "intermediary services"?

- The circular clarifies that the advertising agency is not acting as an intermediary between the foreign client and media owners. The advertising agency is providing a comprehensive service to the foreign client, including designing, procuring media space, and ensuring the advertisement is displayed. Since the agency has its own agreement with the media company and provides services to the foreign client on a principal-to-principal basis, it is not acting as an intermediary as per Section 2(13) of the IGST Act.

²³ Circular No. 230/24/2024-GST dated 10.09.2024

- The advertising agency is not an intermediary in this scenario, and the place of supply should not be determined based on Section 13(8)(b) (i.e., Location of supplier is not the Place of supply).
- However, there may be cases where the advertising agency acts as a facilitator between the foreign client and media owners (when the media owners directly invoice the foreign client). In such cases, the advertising agency would be acting as an **intermediary**, and the place of supply would be location of the supplier.

Issue 2 - Whether services provided by advertising agency, qualifies as "performance based services"?

As per Section 13(3) of the IGST Act, performance-based services generally require goods to be made physically available or require the presence of the recipient. However, in the case of advertising services, neither the foreign client nor the goods need to be physically present with the supplier (advertising agency). Hence, Section 13(3) does not apply (i.e., Location where services are actually performed is not the place of supply)

Conclusion: The place of supply for advertising services is determined by Section 13(2), which refers to the location of the recipient.

Question involved: Who is recipient of service and whether it qualifies for export of service.

- According to Section 2(93)(a) of the CGST Act, the recipient of a service is the person who is liable to pay the consideration. In this case, the foreign client is liable to pay for the advertising services, not the Indian target audience or a representative of the foreign client based in India. Therefore, the foreign client is considered the recipient.
- Since the recipient of the advertising services is the foreign client, the place of supply for these services will be outside India (as per Section 13(2) of the IGST Act), making the service qualify as an export of services. This classification can make the service eligible for zero-rated supplies under the GST, provided the conditions for export are met (including the receipt of payment in foreign exchange).

CLARIFICATION ON PLACE OF SUPPLY APPLICABLE FOR CUSTODIAL SERVICES PROVIDED BY BANKS TO FOREIGN PORTFOLIO INVESTORS – CBIC CIRCULAR²⁴.

This Circular provides a clarification on the determination of the **place of supply** for **custodial services** offered by **banks** or **financial institutions** to **Foreign Portfolio Investors (FPIs)** under the **Integrated Goods and Services Tax (IGST) Act**.

Custodial services refer to the safeguarding and administration of financial assets on behalf of clients, such as **banks**, **financial institutions**, or **investors**. These services are primarily provided by **custodian banks** or specialized custodial service providers to help manage and protect the assets, especially in the context of **securities**, **investments**, and **foreign portfolio investors (FPIs)**. Eg: HDFC Bank, ICICI Bank, J.P. Morgan and BNY Mellon.

Foreign Portfolio Investors (FPIs) are investors from foreign countries who invest in a country's financial markets, particularly in stocks, bonds, and other financial assets. FPIs generally seek to diversify their investment portfolios by investing in various international markets, but without gaining significant control over the companies or assets in which they invest. Eg: **BlackRock**, **Vanguard**, and **Fidelity**

²⁴ Circular No. 220/14/2024- GST dt.

Section 13(8)(a) of the IGST Act:

- As per **Section 13(8)(a)**, the **place of supply** for services provided by a **banking company, financial institution, or NBFC to account holders** is the **location of the supplier** of the services, which generally means that the services are taxable at the location of the bank or financial institution providing the services.
- However, this provision only applies to services provided **to account holders** (i.e., services related to banking, loans, deposits, etc.).
- The **custodial services** provided to **Foreign Portfolio Investors (FPIs)** are **not considered as services provided to account holders**.
- The **Education Guide under Service Tax Regime** previously clarified that **custodial services** are not categorized as services provided to account holders. Since the **Service Tax Place of Provision of Supply Rules, 2012** under Service Tax were similar to the current provisions under **Section 13(8)(a)** of the IGST Act, the same interpretation applies under the GST regime.
- Since custodial services provided to FPIs are **not services provided to account holders**, the **place of supply** for these services must be determined using the **default rule** under **Section 13(2) of the IGST Act**.
- As per **Section 13(2)**, the place of supply of services (where the location of the supplier or recipient is outside India) is the **location of the recipient of services**.



SEGMENT - 8

VALUATION UNDER GST

MECHANISM FOR PROVIDING EVIDENCE OF COMPLIANCE OF CONDITIONS OF POST SUPPLY DISCOUNT – CBIC CIRCULAR²⁵

Section 15(3)(b) specifies that the value of supply shall exclude the 'post-supply discount,' provided that the recipient has reversed the ITC proportionate to the discount value. However, currently there is no mechanism to verify such reversal.

With the above backdrop, the Circular clarifies the mechanism for suppliers to demonstrate compliance with Section 15(3)(b)(ii) of the CGST Act, 2017, regarding discounts via credit notes after supply.

Conditions for Excluding Discounts from Taxable Value:

Discounts can be excluded from the taxable value if:

- Established by an agreement at or before the time of supply.
- Specifically linked to relevant invoices.
- ITC attributable to the discount is reversed by the recipient.

Interim Solution: (Till the time a functionality is enabled in the portal, below mentioned provisions are applicable)

- ▲ **For tax amounts exceeding ₹5 lakhs:** Supplier shall obtain a certificate from the recipient's CA/CMA certifying ITC reversal
- ▲ **For tax amounts not exceeding ₹5 lakhs:** Supplier shall obtain an undertaking or certificate from the recipient.
- ▲ Certificates should detail credit notes, relevant invoices, ITC reversal amounts, and supporting documents like FORM GST DRC-03/Return etc.
- ▲ CA/CMA certificates must include a UDIN, verifiable on ICAI or ICMAI websites.
- ▲ This procedure shall also apply to past periods.
- ▲ Tax amount shall include CGST, SGST, IGST, and compensation cess

APPLICABILITY OF GST ON THE INCENTIVE AMOUNT SHARED BY ACQUIRING BANKS WITH OTHER STAKEHOLDERS IN THE DIGITAL PAYMENT ECOSYSTEM – CBIC CIRCULAR²⁶

The clarification on the applicability of GST on the incentive amount shared by acquiring banks with other stakeholders in the digital payment ecosystem was addressed in the 53rd GST Council meeting and reiterated the nature of these incentives, especially under the MeitY incentive scheme for the promotion of RuPay Debit Cards and low-value BHIM-UPI transactions.

Here are the key points from this clarification:

1. Incentives Paid by MeitY to Acquiring Banks:

- The Ministry of Electronics and Information Technology (MeitY) provides incentives to acquiring banks to promote RuPay Debit Cards and low-value BHIM-UPI transactions.
- As per Circular No. 190/02/2023-GST, dated 13th January 2023, these incentives were clarified as subsidies, which means they are not taxable under GST.

²⁵ Circular No. 212/6/2024 GST dated 26.06.2024

²⁶ Circular No. 228/22/2024-GST dated 15.07.2024

2. Further Sharing of Incentives:

- The acquiring banks often share this incentive with other stakeholders within the digital payment ecosystem, such as payment service providers, aggregators, and other participants.
- It has now been clarified that this further sharing of the incentive—up to the point where it is distributed in the manner decided by NPCI (National Payments Corporation of India) in consultation with the participating banks—is also considered a subsidy.
- Subsidies are not taxable under GST, meaning that the further distribution of these incentives between stakeholders within the payment ecosystem will not attract GST.

CLARIFICATION ON VALUATION OF SUPPLY OF IMPORT OF SERVICES BY A RELATED PERSON WHERE RECIPIENT IS ELIGIBLE TO FULL INPUT TAX CREDIT – CBIC CIRCULAR²⁷:

- ▲ The **second proviso to Rule 28(1)** states that when a supply of goods or services occurs between distinct or related persons, and the **recipient is eligible for full Input Tax Credit (ITC)**, the **value declared in the invoice** shall be deemed as the **open market value** of the goods or services.
- ▲ This clarification applies to **both goods and services**, including cases of **import of services** from related foreign entities.
- ▲ If a **domestic entity** in India imports services from a **related foreign affiliate** (outside India), the domestic entity is required to pay tax under the **Reverse Charge Mechanism (RCM)**.
- ▲ The **domestic entity** must raise a **self-invoice** under **section 31(3)(f)** of the CGST Act and pay the applicable GST under **RCM**.
- ▲ If **full ITC** is available to the domestic entity, the **value of services declared** in the invoice by the domestic entity (under RCM) is **deemed to be the open market value**.
- ▲ In cases where the **invoice is not issued** for certain services provided by the foreign affiliate, the value of such services is deemed to be **Nil**, and this Nil value is also treated as the **open market value**.

VALUE OF SUPPLY IN CASE OF CORPORATE GUARANTEE²⁸ – RULE 28(2) OF CGST RULES, 2017:

The value of supply of services by a supplier to a recipient who is a related person located in India, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be one per cent of the amount of such guarantee offered per annum, or the actual consideration, whichever is higher.

Provided that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the value of said supply of services.

Sl. No.	Issue	Clarification
1	Is Rule 28(2) of CGST Rules applicable w.e.f. 26/10/2023	<u>Corporate Guarantee issued prior to 26/10/2023</u> : Since Rule 28(2) provides for valuation and not taxability, valuation as per Rule 28 to be adopted.

²⁷ Circular No.210/4/2024-GST dated 26.06.2024 relying upon Circular No. 199/11/2023-GST dated 17.07.2023

²⁸ Notification No. 12/2024 – CT dated 10.07.2024 (W.e.f 26.10.2023) – Retrospective amendment and Circular No. 225/19/2024-GST dt. 11.07.2024

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	or does it have a retrospective application?	<u>Corporate Guarantee issued / renewed on or after 26/10/2023: Rule 28(2) to apply</u>
2	What is the value of supply of Corporate Guarantee where the loan amount disbursed is less than amount of guarantee?	Value of Supply of the service of providing a Corporate Guarantee is the amount of 'guarantee offered' and not based on the amount of loan actually disbursed.
3	Is recipient eligible to avail ITC of the above?	Yes. ITC eligibility does not depend on the loan amount.
4	Is GST applicable on corporate guarantee in case of takeover of loans, since it is merely an assignment of already issued corporate guarantee?	Takeover of loans by one bank from another, without issuance of a fresh corporate guarantee or renewal of corporate guarantee would not tantamount to provision of corporate guarantee service. Therefore, GST is not applicable.
5	Where corporate guarantee is provided by more than one entity, what is the amount on which GST is payable by each co-guarantor?	<u>If the total consideration paid to the guarantors exceeds 1% of such guarantee offered:</u> Value of supply to be actual consideration received by each co-guarantor <u>Other cases:</u> Proportionately on 1% of the guarantee offered by each co-guarantor (in absence of ratio, equal proportion to be taken)
6	Is intra-group corporate guarantee liable to RCM?	<u>Supplier & recipient located in India:</u> FCM, supplier to issue invoice <u>Supplier located outside India; and recipient located in India:</u> RCM
7	What is the periodicity of computation of value and payment of GST?	<u>Value of supply:</u> 1% of the guarantee offered per annum (Fixed term guarantee) or the actual consideration, whichever is higher, payable at the time of issuance of such guarantee <u>Example:</u> Corporate Guarantee of ₹ 1 Crore offered for 5 years. GST payable on 1% X 5 = 5% of ₹1 Crores at the time of issuance of Corporate Guarantee <ul style="list-style-type: none"> ▲ Value shall be determined proportionately for the no. of months, if guarantee is for a period less than 1 year ▲ In case of annual renewal, GST shall be payable each year based on the value determined under Rule 28(2) each year.
8	Is the benefit of second proviso to 28(1), not applicable for Corporate Guarantee?	Supply of service of Corporate Guarantee between related persons, where full ITC is available to the recipient, the value declared in the invoice shall be deemed to be the Value of supply of the said service
9	Whether the valuation in terms of Rule 28(2), will apply to the export of the service of providing Corporate Guarantee between related persons?	Rule 28(2) shall not apply to the export of the services of providing Corporate Guarantee between related persons

SEGMENT - 9

INPUT TAX CREDIT

CLARIFICATION ON TIME LIMIT UNDER SECTION 16(4) FOR AVAILING ITC IN CASE OF SUPPLIES RECEIVED FROM UNREGISTERED SUPPLIERS IN RESPECT OF RCM SUPPLIES – CBIC CIRCULAR²⁹:

This circular clarifies the application of the time limit for availing Input Tax Credit (ITC) under the Central Goods and Services Tax (CGST) Act, particularly in cases where the recipient of supplies is required to pay tax under the Reverse Charge Mechanism (RCM).

- When the supplier is unregistered and recipient is registered, in case of supply of goods or services, covered under RCM, recipient shall issue invoice to supplier under Sec. 31(3)(f).
- Invoice shall be issued by recipient to supplier on the date of receipt of such goods or services.

When can recipient claim ITC?

- ⤴ Ascertain the financial year in which invoice is issued for such inward supply.
- ⤴ Time limit u/s 16(4): 30th November of the succeeding financial year or date of filing annual return whichever is earlier.

What is the implication of delayed invoicing?

- ⤴ If the recipient issues the invoice after the time of supply and pays the tax accordingly, interest on the delayed payment of tax will be applicable.
- ⤴ Additionally, the recipient may also face penalty under Section 122 of the CGST Act for the delayed issuance of the invoice.

CLARIFICATION IN RESPECT OF GST LIABILITY AND INPUT TAX CREDIT (ITC) AVAILABILITY IN CASES INVOLVING WARRANTY/ EXTENDED WARRANTY – CBIC CIRCULARS

Integrated Explanation of Circulars No. 195/07/2023-GST and 216/10/2024-GST:

These two circulars provide detailed guidance on GST implications related to warranties, particularly focusing on the replacement of goods or parts under warranty, the role of distributors, and the tax treatment of extended warranties. Let's integrate the key points from both circulars.

Replacement of Goods or Parts Under Warranty:

Circular No. 195/07/2023-GST:

- **Initial Clarification:** Circular No. 195/07/2023-GST clarified that when parts are replaced under warranty by the manufacturer, no additional GST is applicable because the replacement is part of the original supply of goods, for which GST has already been paid. The manufacturer is not required to reverse Input Tax Credit (ITC) for these replacements.

²⁹ Circular No. 211/5/2024-GST dated 26.06.2024

Extension in Circular No. 216/10/2024-GST:

- **Inclusion of Full Goods Replacement:** Circular No. 216/10/2024-GST extends this clarification to include cases where entire goods, not just parts, are replaced under warranty. The same principles apply—no additional GST is charged on the replacement of goods, and no ITC reversal is required. This means that whether a part or the entire product is replaced, the GST treatment remains the same as clarified earlier.

Replenishment of Goods or Parts by Manufacturer to Distributor:**Situation Clarified:**

- **Distributor Replacement:** Often, distributors replace defective parts or goods for customers under warranty, using their own stock. Later, the manufacturer replenishes the distributor's stock.
- **GST Treatment:** When the manufacturer replenishes the stock provided to the distributor via a delivery challan without charging any consideration, no GST is payable on this replenishment. Additionally, the manufacturer does not need to reverse ITC on these goods or parts.

Nature of Supply of Extended Warranty at the Time of Original Supply:**Circular No. 195/07/2023-GST:**

- **Composite Supply:** If an extended warranty is purchased at the same time as the original goods, and from the same supplier, it is considered part of a composite supply. The principal supply being the goods, the GST rate applicable to the goods also applies to the extended warranty.

Circular No. 216/10/2024-GST:

- **Separate Supply by Different Supplier:** If the extended warranty is provided by a different supplier than the one who supplied the goods, it is treated as a separate supply of services. GST would then be charged as a service, distinct from the original supply of goods.

Nature of Supply of Extended Warranty Made After Original Supply:**Consistent Clarification:**

- **Separate Supply of Services:** Whether the extended warranty is purchased at the time of the original sale or later, if purchased separately from a different supplier or after the original supply, it is treated as a distinct supply of services. The supplier of the extended warranty is liable to charge GST on this service.

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 – CBIC CIRCULAR³⁰

This circular provides clarifications on the availability of Input Tax Credit (ITC) to insurance companies in relation to motor vehicle repair services under different modes of claim settlement—Cashless and Reimbursement. Here's a breakdown of the key points:

ITC Availability in Reimbursement Mode of Claim Settlement:

- **Scenario:** In the reimbursement mode, the insured initially pays the repair charges to the garage, and the insurance company later reimburses the insured for the approved repair costs.

³⁰ Circular No. 217/11/2024-GST dated 26.06.2024

- **Clarification:**
 - The insurance company is considered the "recipient" of the repair service to the extent of the approved claim cost, even though the initial payment was made by the insured. This is because the liability to pay for the repair service ultimately lies with the insurance company.
 - **ITC Availability:** The insurance company can avail of ITC on the GST paid for the repair services, as these services are directly related to their outward supply of insurance services. The circular confirms that ITC is **not barred** under Section 17(5) of the CGST Act for motor vehicle repair services in this context.

ITC Availability When the Invoice Includes Amount Beyond Approved Claim Cost:

- **Scenario:** When the repair invoice issued by the garage includes an amount that exceeds the approved claim cost, and the insurance company only reimburses the approved portion:
 - **Two Separate Invoices:** If the garage issues one invoice to the insurance company for the approved claim cost and another invoice to the customer for the excess amount, the insurance company can claim ITC on the GST paid on the invoice issued to it, as long as it reimburses the corresponding amount.
 - **Single Invoice for Full Amount:** If a single invoice is issued to the insurance company for the full repair amount, but the insurance company only reimburses the insured for the approved claim cost, ITC is available only to the extent of the reimbursement amount. The insurance company cannot claim ITC on the portion of the invoice that exceeds the reimbursement.

ITC Availability When the Invoice is Not in the Name of the Insurance Company:

- **Scenario:** If the garage issues the repair invoice in the name of the insured (customer) rather than the insurance company:
 - **Condition of Section 16(2)(a) and (aa) of the CGST Act:** These sections require that the invoice must be in the name of the person claiming ITC.
 - **Clarification:** Since the invoice is not in the name of the insurance company, the company cannot satisfy the conditions of Section 16(2)(a) and (aa), and therefore, ITC is **not available** to the insurance company in this situation.

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 – CBIC CIRCULAR³¹:

The clarification addresses whether the portion of the **life insurance premium** that is **not taxable** under **Rule 32(4)** of CGST Rules, 2017 should be considered a **non-taxable or exempt supply**, thus triggering the need for **ITC reversal** under **Section 17(1)** read with **Rules 42 and 43** of the CGST Rules.

- The premium portion **not included in the taxable value** is **not considered as an exempt or non-taxable supply**.
- Therefore, there is **no need for reversal of ITC** under the provisions of **Rule 42 or Rule 43**, in relation to that premium amount.
- Essentially, the **entire premium for taxable life insurance policies**—even though some portion may not be included in the taxable value—will **not be treated as exempt or non-taxable** for the purpose of ITC calculations.

³¹ Circular No.-214/8/2024-GST dated 26.06.2024

This ensures that **insurance companies** do not have to reverse ITC on the premium amount that is excluded from the taxable value due to special valuation rules under **Rule 32(4)** of CGST Rules, 2017.

CLARIFICATION ON AVAILABILITY OF INPUT TAX CREDIT ON DUCTS AND MANHOLES USED IN NETWORK OF OPTICAL FIBRE CABLES (OFCs) IN TERMS OF SECTION 17(5) OF THE CGST ACT, 2017 – CBIC CIRCULAR³²

This circular provides clarification on the eligibility of Input Tax Credit (ITC) for ducts and manholes used in the network of Optical Fiber Cables (OFCs) under the Central Goods and Services Tax (CGST) Act, 2017.

Definition of "Plant and Machinery":

- **Context of OFC Network:** Ducts and manholes are essential components of the Optical Fiber Cable (OFC) network, which is crucial for providing telecommunication services. The OFC network is typically laid within PVC ducts, and manholes serve as nodes for connectivity, upkeep, and maintenance of the network.
- **Plant and Machinery under CGST Act:** According to the Explanation in Section 17 of the CGST Act, "plant and machinery" includes apparatus, equipment, and machinery used for making outward supplies. The definition specifically excludes certain items like land, buildings, civil structures, telecommunication towers, and pipelines laid outside the factory premises.
- **Clarification on Ducts and Manholes:** The circular clarifies that ducts and manholes, which are integral to the OFC network, qualify as "plant and machinery." These components are not specifically excluded from the definition because:
 - They are not in the nature of land, buildings, or civil structures.
 - They are not telecommunication towers or pipelines laid outside the factory premises.

Input Tax Credit (ITC) Eligibility:

- **General Rule:** Under Section 17(5) of the CGST Act, ITC is restricted for certain goods and services, particularly those related to motor vehicles, construction services, and telecommunication towers, among others.
- **Application to Ducts and Manholes:**
 - **Not Restricted:** The circular clarifies that the avilment of ITC is **not restricted** for ducts and manholes used in the OFC network. This means that companies laying OFCs and using these components can claim ITC on the GST paid for their procurement.
 - **Supporting Clause:** Since ducts and manholes are considered "plant and machinery" and are used in the business of providing telecommunication services, they do not fall under the exclusions listed in Section 17(5)(c) and (d) of the CGST Act.

³² Circular No. 219/13/2024- GST dt. 26.06.2024

EXCEPTION TO TIME LIMIT FOR AVAILMENT OF ITC – NEW SEC. 16(5) OF CGST ACT INSERTED VIDE FINANCE ACT, 2024:

- ⤴ Registered persons can claim **Input Tax Credit (ITC)** for invoices or debit notes related to supplies of goods or services from the **financial years 2017-18, 2018-19, 2019-20, and 2020-21**.
- ⤴ ITC for these periods can be claimed in any return filed under **Section 39** up until **November 30, 2021**. This was a temporary extension for claiming ITC for these specific years beyond the usual timeframe.

Example:

Suppose a taxpayer had wrongly availed ITC on invoices that were issued more than a year after the date of the original supply, in violation of **Section 16(4)**. A demand order was issued under **Section 74**. Later, it was found that the ITC could be claimed as per the amended provisions under **Section 16(5)**. In this case, the taxpayer can claim the ITC which was previously disallowed in terms of order under section 74.

ITC IN CASE OF REVOCATION OF CANCELLED REGISTRATION - NEW SEC. 16(6) OF CGST ACT INSERTED VIDE FINANCE ACT, 2024:

- If a person's **GST registration** was cancelled and later **revoked** (either under **Section 30** or by an **Appellate Authority, Tribunal, or Court**), and the time limit for availment of ITC under Sec. 16(4) has not expired as on the date of order of cancellation of registration, they may still be entitled to claim ITC.
- The registered person can claim ITC on such invoices or debit notes, in any return filed within:
 - a) Regular time limit for such invoice or debit notes under Sec. 16(4) (or)
 - b) 30 days from the date of order of revocation of cancellation of registration,**whichever is later.**

PROCEDURE FOR AVAILMENT OF ITC IN TERMS OF SEC. 16(5) AND 16(6)³³:

This notification is designed to provide relief to those taxpayers who can now claim ITC under the provisions of Sections 16(5) or 16(6) and streamline the process of correcting past ITC errors without having to undergo lengthy appeals or legal battles.

1. **Eligibility for Rectification:** The notification applies to taxpayers who have been issued an order under Sections [73](#), [74](#), [107](#), or [108](#) of the CGST Act confirming the demand for wrongly availed ITC due to a contravention of Section 16(4). However, the taxpayer can only apply for rectification if:
 - ⤴ The ITC is now available for claim under Sections 16(5) or 16(6)
 - ⤴ No appeal has been filed against the order
2. **Time Limit for Application:** The application for rectification as provided in Annexure A of this notification, must be filed electronically on the GST portal within six months of the issuance of this notification, i.e., by 7th April 2025.

³³ Notification No. 22/2024-CT dated 08.10.2024

3. **Procedure for Rectification:** The taxpayer needs to submit the following details electronically:
 - ▲ GSTIN, Legal Name, and Trade Name of the taxpayer.
 - ▲ Reference number and date of the order under Sections 73, 74, 107, or 108.
 - ▲ Detailed information about the wrongly availed ITC, the applicable financial years, and the tax amounts, interest, and penalties as per the original order.
 - ▲ Justification for why the ITC is now claimable under Sections 16(5) or 16(6).
 - ▲ All relevant details must be submitted in the proforma provided in Annexure A of the notification.

4. **Role of the Tax Officer:** The tax officer who issued the original order will review the application. They must:
 - ▲ Make a decision within three months from the date of receipt of the rectification application.
 - ▲ If the application is approved, issue a rectified order.
 - ▲ Update the rectified order summary in FORM GST DRC-08 (for orders under Sections 73 and 74) or FORM GST APL-04 (for orders under Sections 107 and 108).
 - ▲ Follow the principles of natural justice if the rectification adversely affects the taxpayer, meaning that the taxpayer should be given an opportunity to present their case before the final decision.

CLARIFICATION ON AVAILABILITY OF INPUT TAX CREDIT (ITC) IN RESPECT OF DEMO VEHICLES³⁴:

This circular addresses the eligibility of **Input Tax Credit (ITC)** on **demo vehicles** used by authorized motor vehicle dealers for showcasing and test driving to potential customers. The primary objective is to clarify when ITC on demo vehicles is allowed and when it is blocked under **Section 17(5)(a) of the CGST Act**.

Availability of ITC on Demo Vehicles for Sale:	Scenarios Where ITC Is Blocked:
<p>Demo Vehicles Used for Further Supply:</p> <ul style="list-style-type: none"> • Authorized motor vehicle dealers use demo vehicles for promoting the sale of similar vehicles. These demo vehicles are considered to be used for the further supply of motor vehicles, even though they are not directly sold immediately. • Under Section 17(5)(a)(A) of the CGST Act, ITC is not blocked on such demo vehicles as they are being used in the course of business to promote sales. Therefore, ITC can be availed by authorized dealers for demo vehicles. 	<p>Vehicles Used for Other Purposes:</p> <p>When demo vehicles are used for purposes other than for making further supply (e.g., for employee transportation or management), ITC is blocked under Section 17(5)(a). These vehicles are not used for further supply, so ITC cannot be claimed.</p>
<p>Capitalization of Demo Vehicles:</p> <ul style="list-style-type: none"> • Demo vehicles capitalized in the dealer's books as capital goods under Section 2(19) of the CGST Act are eligible for ITC, subject 	<p>Marketing Services by Dealers on Behalf of Manufacturers:</p> <p>If the dealer is merely providing marketing services for the vehicle</p>

³⁴ Circular No. 231/25/2024-GST Dated 10.09.2024

<p>to the general provisions of Section 16(1). However, if depreciation is claimed on the tax component of the vehicle's cost under the Income Tax Act, 1961, ITC on the tax portion is disallowed as per Section 16(3) of the CGST Act.</p> <ul style="list-style-type: none"> If the demo vehicle is later sold, the dealer must comply with the Section 18(6) i.e., a) ITC availed – 5% for every quarter or part thereof from the date of purchase till the date of sale (or) GST on sale value of said goods, whichever is higher. 	<p>manufacturer and not directly involved in the purchase or sale of the vehicle, the demo vehicle cannot be considered as being used for further supply. In this scenario, ITC is not available.</p>
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Conclusion:

- ITC is available on demo vehicles if they are used for promoting the **further supply** of vehicles.
- If demo vehicles are **capitalized** as **capital goods**, ITC is available unless depreciation is claimed on the tax component.
- If the demo vehicles are used for non-business purposes or as part of **marketing services** for the manufacturer, ITC is **blocked**.



SEGMENT - 10

COMPOSITION SCHEME

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 11

TAX INVOICE, DEBIT NOTES AND CREDIT NOTES

REQUIREMENT OF ISSUING CONSOLIDATED INVOICES IN CASE OF RCM U/S 9(4) IS OMITTED³⁵ – RULE 46 OF CGST RULES, 2017:

“Provided further that where an invoice is required to be issued under clause (f) of sub-section (3) of section 31, a registered person may issue a consolidated invoice at the end of a month for supplies covered under sub-section (4) of section 9, the aggregate value of such supplies exceeds rupees five thousand in a day from any or all the suppliers”

- ▲ The above proviso stands omitted as Sec. 9(4) is now restricted only to inward supplies of promoter or builder from an unregistered person.
- ▲ In such case, for inward supplies from an unregistered person covered under RCM u/s 9(3) or 9(4), invoice time limit is notified under Rule 47A of CGST Rules, 2017.
- ▲ **Time limit for issuing tax invoice (Rule 47A):** Invoice shall be issued within a period of **30 days** from the date of receipt of the said supply of goods or services.



³⁵ Notification No. 20/2024 – CT dated 08.10.2024 (w.e.f. 01.11.2024)

SEGMENT - 12

REGISTRATION UNDER GST

EXEMPTION FROM REGISTRATION NOT APPLICABLE TO A SUPPLIER ENGAGED IN SUPPLY OF METAL SCRAP³⁶ – SEC. 23 OF CGST ACT, 2017:

- ▲ Supply of metal scrap falling under heading 72 to 81 by a registered person to another registered person is covered under RCM u/s 9(3) read with Notification No. 4/2017
- ▲ A person engaged exclusively in taxable supply of goods or services covered under RCM u/s 9(3) is exempted from registration as per Notification No. 5/2017
- ▲ However, such exemption is not applicable to a person engaged in supply of metal scrap to a registered person.
- ▲ Therefore, a person engaged in exclusive supply of metal scrap to a registered person has only RCM liability and even then, they are not exempted from registration and cannot cancel their registration.

COMPLIANCE TO BE FOLLOWED BY A PERSON WHO HAS NOT OPTED FOR AADHAR AUTHENTICATION³⁷ – SECOND PROVISO TO RULE 8(4A) OF CGST RULES, 2017

A second proviso shall be inserted in rule 8 after sub-rule (4A) which lays down that every registration application filed by a person, who has **not opted for authentication** of Aadhar number, shall be followed by taking photograph of the applicant along with verification of the original copy of the documents uploaded with the application in Form GST REG-01 at any of the notified Facilitation Centers to complete the application process

NEW CLAUSE IN CONTRAVENTION OF PROVISIONS FOR CANCELLATION OF REGISTRATION³⁸ – RULE 21 OF CGST RULES, 2017:

A new clause (ga) has been inserted after clause (g) to provide that registration can be cancelled where a person violates 3rd or 4th proviso to rule 23(1) i.e., registration will be cancelled again if a person fails to file all the returns due for the period **from the date of the order of cancellation of registration (prospective cancellation)/ effective date of cancellation of registration (Retrospective cancellation) till the date of the order of revocation of cancellation of registration within 30 days from the date of revocation order.**

Contravention of provisions resulting in cancellation of registration – Rule 21 of CGST Rules, 2017:

F	Fraudulently obtaining registration
R	Returns not filed for continuous 6 months or 2 quarters
A	Annual return by composition scheme not filed within 3 months after due date
N	No longer liable to be registered
T	Transfer or discontinuance of business
I	Invoice without supply (or) Incorrect invoice
C	Change in constitution of business
	Violation of -

³⁶ Notification No. 24/2024 – CT dated 09.10.2024 (W.e.f. 10.10.2024)

³⁷ Notification No. 12/2024 – CT dated 10.07.2024 (W.e.f. date yet to be notified)

³⁸ Notification No. 12/2024 – CT dated 10.07.2024 (W.e.f. 10.07.2024)

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B	Bank details to be furnished within time
A	Anti-profiteering order
I	Input tax credit availment
L	Liability in GSTR 1 > Liability in GSTR 3B
E	Electronic Cash Ledger 1% payment
R	Return not filed within 30 days after revocation order

APPLICABILITY OF BIOMETRIC BASED AADHAAR AUTHENTICATION EXTENDED TO ALL OVER INDIA³⁹:

- ▲ By virtue of Notification No. 27/2022-CT dt. 26.12.2022, the provisions of rule 8(4A) of the CGST Rules, 2017 relating to biometric based Aadhaar authentication had been made applicable only to the States of Gujarat, Andhra Pradesh, and Puducherry.
- ▲ However, now with rescinding of Notification No. 27/2022-CT dt. 26.12.2022, the same have been made applicable to all the States and Union territories for the purpose of completion of registration application.



³⁹ Notification No. 13/2024-CT dt. 10.07.2024

SEGMENT - 13

GST PAYMENT PROCESS

SUPPLY OF METAL SCRAP NOTIFIED FOR TDS U/S 51 OF CGST ACT, 2017⁴⁰:

As per Notification No. 50/2018-CT as amended by Notification No. 25/2024, following are the notified recipients to whom the provisions of TDS is applicable:

- (a) an authority or a board or any other body set up by an Act of Parliament or a State Legislature; or established by any Government,
- (b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860
- (c) public sector undertakings
- (d) any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), from other registered person**
 - Sale of metal scrap (Falling under chapter 72 to 81) by any registered person to another registered person is covered under TDS u/s 51.
 - Metal scrap can be scrap of iron, steel, copper, Nickel, Aluminum, Lead, Zinc, Tin and other base metals.
 - Recipient is required to deduct TDS @ 2% on the amount remitted.

Provided that with respect to persons specified under clause (a) of sub-section (1) of section 51 of the Act, nothing in this notification shall apply to the authorities under the Ministry of Defence, other than the authorities specified in the Annexure A and their offices, with effect from the 1st day of October, 2018

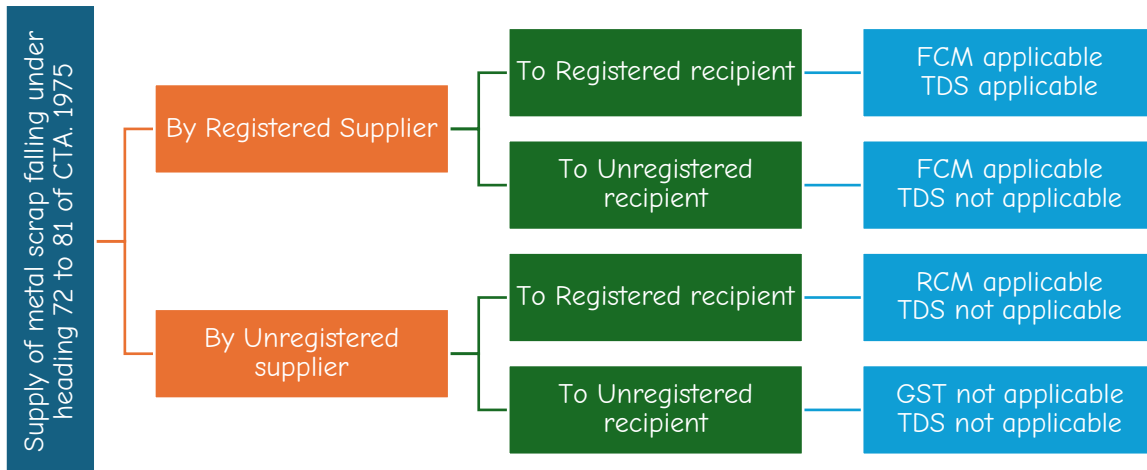
Provided further that nothing in this notification shall apply to the supply of goods or services or both from a public sector undertaking to another public sector undertaking, whether or not a distinct person, with effect from the 1st day of October, 2018

Provided also that nothing in this notification shall apply to the supply of goods or services or both, which takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of Section 51 of the said Act, except the person referred to in clause (d) of this notification

- TDS is not applicable in case of supply of goods or services between notified persons u/s 51 of CGST Act, 2017.
- However, if notified persons u/s 51, is making supply of metal scrap to a registered person, then the above relaxation is not applicable and consequently the registered recipient is required to deduct TDS.
- Also, if a registered person is making supply of metal scrap to other notified persons u/s 51, TDS is applicable.

⁴⁰ Notification No. 25/2024-CT dt. 09.10.2024

Note: RCM and TDS on Supply of metal scrap – A convergence



REDUCTION OF RATE OF TAX TO BE COLLECTED AT SOURCE BY ELECTRONIC COMMERCE OPERATOR⁴¹ - SEC. 52 OF CGST ACT, 2017:

- Every electronic commerce operator, not being an agent, shall collect an amount calculated at a rate of 0.25% of the net value of intra-State taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator.
- Therefore, the effective rate of TCS under GST will be 0.5% [0.25% CGST + 0.25% SGST/UTGST].

Note: However, the TDS rate under Sec. 51 of CGST Act, 2017 remains same i.e., 2% [1% CGST + 1% SGST/UTGST]

INTEREST NOT PAYABLE ON ACCOUNT OF DELAY IF FILING GSTR-3B, IF SUFFICIENT BALANCE IS MAINTAINED IN ELECTRONIC CASH LEDGER AS ON THE DUE DATE OF GSTR-3B – AMENDMEN TO RULE 88B⁴².

A proviso has been inserted after sub-rule (1) in rule 88B which lays down that where any amount has been credited in the electronic cash ledger as per section 49(1) on or before the due date of filing the said return, but is debited from the said ledger for payment of tax while filing the said return after the due date, the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return.

⁴¹ Notification No. 15/2024 - CT dt. 10.07.2024

⁴² Notification No. 12/2024 – CT dated 10.07.2024 (w.e.f. 10.07.2024)

SEGMENT - 14

RETURNS UNDER GST

FORM AND MANNER OF FURNISHING DETAILS OF OUTWARD SUPPLIES (FORM GSTR-1 & FORM GSTR-1A)⁴³ – RULE 59 OF CGST RULES, 2017:

(1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in **FORM GSTR-1** for the month or the quarter, as the case may be, electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner:

Provided that the said person may, after furnishing the details of outward supplies of goods or service or both in **FORM GSTR-1** for a tax period but before filing of return in **FORM GSTR-3B** for the said tax period, at his own option, amend or furnish additional details of outward supplies of goods or services or both in **FORM GSTR-1A** for the said tax period electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.

(2) The registered persons required to furnish return for every quarter under proviso to sub-section (1) of section 39 may furnish the details of such outward supplies of goods or services or both to a registered person, as he may consider necessary, for the first and second months of a quarter, up to a cumulative value of fifty lakh rupees in each of the months,—using invoice furnishing facility (hereafter in this notification referred to as the "IFF") electronically on the common portal, duly authenticated in the manner prescribed under rule 26, from the 1st day of the month succeeding such month till the 13th day of the said month:

(3) The details of outward supplies furnished using the IFF, for the first and second months of a quarter, shall not be furnished in **FORM GSTR-1** for the said quarter.

(4) The details of outward supplies of goods or services or both furnished in **FORM GSTR-1** shall include the—

(a)	invoice wise details of all—	<table border="1"> <tr> <td style="width: 10%;">(i)</td> <td style="width: 10%;">inter-State and intra-State supplies made to the registered persons; and</td> </tr> <tr> <td>(ii)</td> <td>inter-State supplies with invoice value more than one lakh rupees made to the unregistered persons;</td> </tr> </table>	(i)	inter-State and intra-State supplies made to the registered persons; and	(ii)	inter-State supplies with invoice value more than one lakh rupees made to the unregistered persons;
(i)	inter-State and intra-State supplies made to the registered persons; and					
(ii)	inter-State supplies with invoice value more than one lakh rupees made to the unregistered persons;					
(b)	consolidated details of all—	<table border="1"> <tr> <td>(i)</td> <td>intra-State supplies made to unregistered persons for each rate of tax; and</td> </tr> <tr> <td>(ii)</td> <td>State wise inter-State supplies with invoice value upto one lakh rupees made to unregistered persons for each rate of tax;</td> </tr> </table>	(i)	intra-State supplies made to unregistered persons for each rate of tax; and	(ii)	State wise inter-State supplies with invoice value upto one lakh rupees made to unregistered persons for each rate of tax;
(i)	intra-State supplies made to unregistered persons for each rate of tax; and					
(ii)	State wise inter-State supplies with invoice value upto one lakh rupees made to unregistered persons for each rate of tax;					
(c)	debit and credit notes, if any, issued during the month for invoices issued previously.					

(4A) The additional details or the amendments of the details of outward supplies of goods or services or both furnished in **FORM GSTR-1A** may, as per the requirement of the registered person, include the -

(a)	invoice wise details of -
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⁴³ Notification No. 12/2024 – CT dated 10.07.2024 (w.e.f. 10.07.2024)

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	(i)	inter-State and intra-State supplies made to the registered persons; and
	(ii)	inter-State supplies with invoice value more than one lakh rupees made to the unregistered persons;
(b)	consolidated details of -	
	(i)	intra-State supplies made to unregistered persons for each rate of tax; and
	(ii)	State wise inter-State supplies with invoice value upto one lakh rupees made to unregistered persons for each rate of tax;
(c)	debit and credit notes, if any, issued during the month for invoices issued previously.	

(5) The details of outward supplies of goods or services or both furnished using the IFF shall include the—

(a)	invoice wise details of inter-State and intra-State supplies made to the registered persons;
(b)	debit and credit notes, if any, issued during the month for such invoices issued previously.

(6) Notwithstanding anything contained in this rule,—

(a)	a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 , if he has not furnished the return in FORM GSTR-3B for the preceding month;
(b)	a registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period;
(c)	a registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety nine per cent of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period.
(d)	a registered person, to whom an intimation has been issued on the common portal under the provisions of sub-rule (1) of rule 88C in respect of a tax period, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of sub-rule (2) of rule 88C;
(e)	a registered person, to whom an intimation has been issued on the common portal under the provisions of sub-rule (1) of rule 88D in respect of a tax period or periods, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period, unless he has either paid the amount equal to the excess input tax credit as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess input tax credit that still remains to be paid, as required under the provisions of sub-rule (2) of rule 88D;
(f)	a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice

furnishing facility, if he has not furnished the details of the bank account as per the provisions of rule 10A.

FAQ's on above:**1. What is GSTR-1, and who is required to file it?**

GSTR-1 is a form used by registered taxpayers to report their **outward supplies** of goods or services (sales) for a tax period. Every registered person, except those falling under **Section 14 of the IGST Act**, must file GSTR-1 either monthly or quarterly, based on their chosen filing frequency.

2. Can I amend the details in GSTR-1 after submitting it?

Yes, taxpayers can amend the details in GSTR-1 using **GSTR-1A**. Amendments or additional details can be added in GSTR-1A before filing **GSTR-3B** for the same period. Tax payers can file GSTR-1A in the following scenario:

- a. To add new records which taxpayer missed out while filing in form GSTR-1, and/or
- b. To amend records which were already reported in same period in form GSTR-1.

However, earlier tax periods data cannot be amended using GSTR-1A and for that GSTR-1 amendment tables only should be used.

E.g. GSTR 1 for the month of August 2024 has been furnished by the taxpayer on 10th of September 2024. Taxpayer committed a mistake in 2 records and missed to report one record in its GSTR 1. Now GSTR 1A shall be opened for him/her on 10th of September or due date of GSTR 1 (i.e. 11th of September) whichever is later. The Taxpayer will be able to amend the incorrect record and shall also be able to add the missed record in Form GSTR 1A. The correct value shall be auto populated in its GSTR 3B.

3. Can GSTR-1A be filed after filing GSTR-3B of such tax period?

No, taxpayer cannot file GSTR-1A once GSTR-3B is filed for the same tax period. However, the functionality of amending records reported in previously filed GSTR-1 in subsequent GSTR 1 will be continued as it is.

4. Can Recipient's GSTIN be amended in GSTR-1A

No, GSTIN of the recipient cannot be amended through GSTR1A. Same can be done only through GSTR 1 of the following tax periods.

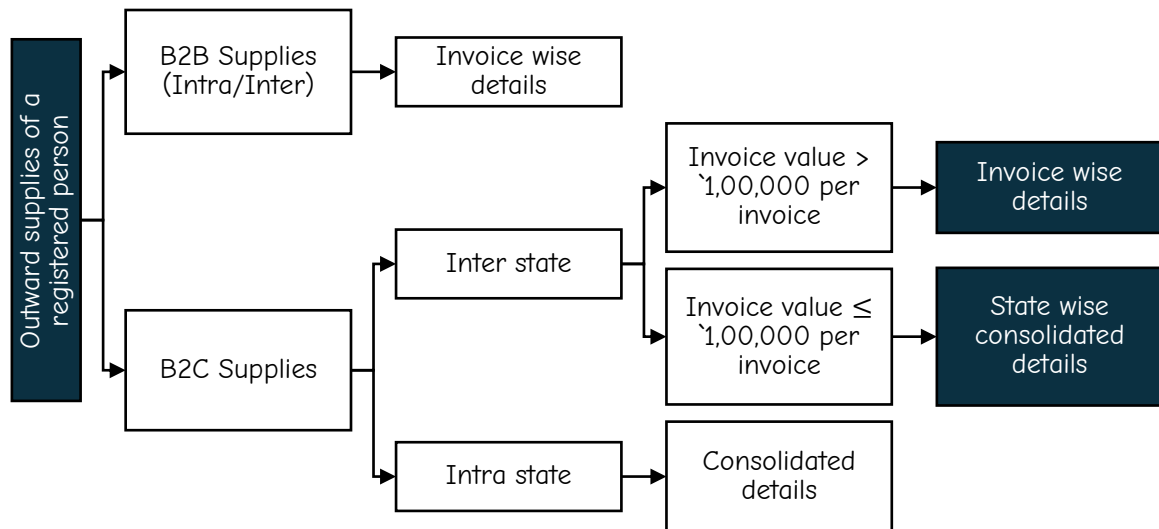
5. When will such details amended in GSTR-1A be reflected in GSTR-2B of recipient?

As per Rule 60, Form GSTR-2B, for every month, shall consist of, inter alia, additional details or amendments in details of outward supplies furnished in Form GSTR-1A filed between the day immediately after the due date of furnishing of GSTR-1 for the previous tax period to the due date of furnishing of Form GSTR -1 for the current tax period. Thus, supplies declared or amended in Form GSTR-1A shall be made available in the next open Form GSTR-2B

6. What is the Invoice Furnishing Facility (IFF), and who can use it?

The **Invoice Furnishing Facility (IFF)** is available to taxpayers who file quarterly returns (It is optional). It allows them to submit details of outward supplies for the first and second months of a quarter. They can report supplies up to a cumulative value of **₹50 lakh** per month. The IFF helps ensure that recipients can claim Input Tax Credit (ITC) promptly.

7. How the details must be included in GSTR-1/GSTR-1A?



Note: Debit Notes and Credit notes to B2B as well B2C should also be reported.

8. What are the situations where filing GSTR-1/IFF shall be blocked (or) restricted?

- ▲ GSTR – 3B not filed for preceding month (Normal Scheme)
- ▲ GSTR – 3B not filed for preceding quarter (QRMP Scheme)
- ▲ Intimation under Rule 88C issued (Liability in GSTR-1 > Liability in GSTR-3B) but neither reply to such intimation nor differential amount along with interest is paid.
- ▲ Intimation under Rule 88D issued (ITC in GSTR-3B > ITC in GSTR-2B) but neither reply to such intimation nor differential amount along with interest is paid.
- ▲ Not furnished bank details within the time limit under Rule 10A (i.e., within 30 days from the date of registration certificate or date of filing first GSTR-1/IFF, whichever is earlier)

CHANGE IN TIME LIMIT FOR FILING GSTR-4⁴⁴:

- ▲ GSTR-4 is an annual return to be filed by a person opting for composition scheme.
- ▲ Earlier, the time limit for filing such return was 30th April of the succeeding financial year.
- ▲ A proviso has been inserted in rule 62 to lay down that the return in Form GSTR-4 for a financial year from FY 2024-25 onwards shall be furnished by the registered person till 30th June of the following financial year.

⁴⁴ Notification No. 12/2024 – CT dated 10.07.2024 (w.e.f. 10.07.2024)

SEGMENT - 15

ACCOUNTS AND RECORDS, E-WAY BILL

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 16

REFUND UNDER GST

CLARIFICATION ON REGULARIZATION OF IGST REFUND FOR EXPORTERS UTILIZING CUSTOMS EXEMPTIONS – CBIC CIRCULAR⁴⁵

This circular provides clarity on the **regularization of IGST refunds** that were availed in **contravention of Rule 96(10)** of the CGST Rules, 2017, specifically focusing on situations where exporters initially imported inputs without paying **IGST and Compensation Cess** under **Notification No. 78/2017-Customs** and **Notification No. 79/2017-Customs**.

- ▲ This rule restricts claiming IGST refunds on exports if the exporter has availed the benefit of certain customs exemption notifications that allow the import of inputs without paying **IGST or Compensation Cess**.
- ▲ The circular clarifies that if an exporter **initially availed these exemptions** but later **paid the IGST and Compensation Cess** (along with interest) on such imported inputs, they are **not in contravention** of Rule 96(10). The **refund of IGST paid on exports** can thus be **regularized**, provided the Bill of Entry is reassessed to reflect the payment of taxes.
- ▲ **This circular is issued for clarifying the Notification No. 16/2020-CT**: This notification introduced an explanation stating that if a registered person has paid **IGST and Compensation Cess** and availed the exemption only on **Basic Customs Duty (BCD)**, they are considered **not to have availed** the benefit of the relevant exemptions under Rule 96(10) and consequently eligible for refund upon payment of IGST on export.

Conclusion: Exporters who imported goods without paying IGST and Compensation Cess under the relevant notifications can now regularize their situation by paying the deferred IGST and Compensation Cess along with interest. After this, their IGST refunds on exports will not be seen as violating Rule 96(10), provided they complete the **reassessment of the Bill of Entry** through Customs.

CHANGES TO COMPUTATION OF MAX. REFUND OF UNUTILISED ITC ON ACCOUNT OF ZERO-RATED SUPPLIES⁴⁶ – RULE 89(4) OF CGST RULES, 2017:

- ▲ Refund of ITC under Rule 89(4A) or Rule 89(4B) is now omitted
- ▲ Consequently, in the computation of NET ITC, earlier the ITC refund under Rule 89(4A) or (4B) was reduced, but now such reduction is not applicable.
- ▲ Also, in the computation of ZERO-RATED TURNOVER and ADJUSTED TOTAL TURNOVER, earlier the turnover under Rule 89(4A) or (4B) was reduced, but now such reduction is not applicable.

⁴⁵ Circular No. 233/27/2024-GST dt. 10.09.2024

⁴⁶ Notification No. 20/2024 – CT dated 08.10.2024

REFUND OF IGST PAID ON EXPORT OF GOODS AVAILABLE, EVEN IF BENEFIT CLAIMED UNDER EPCG SCHEME⁴⁷ – RULE 96 OF CGST RULES, 2017:

- ⤴ Earlier, refund of IGST paid on export of goods or services, not available, if the exporter has claimed benefit under EPCG scheme
- ⤴ However, now this sub rule is omitted, consequently this condition is not applicable for an exporter claiming refund of IGST paid on export.



⁴⁷ Notification No. 20/2024 – CT dated 08.10.2024

SEGMENT - 17

ASSESSMENT & AUDIT

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 18

SEARCH, SEIZURE, OFFENCES & PENALTIES

PENALTY FOR FAILURE TO REGISTER CERTAIN MACHINES USED IN MANUFACTURE OF GOODS AS PER SPECIAL PROCEDURE⁴⁸ – SECTION 122A OF CGST ACT, 2017:

The **new section 122A** of the CGST Act, introduced via the **Finance Act, 2024**, targets penalties for non-registration of machines used in the manufacture of goods such as **tobacco, pan-masala**, and similar items, under a **special procedure notified under Section 148** of the CGST Act.

Penalty for Non-Registration of Machines:

- If a person engaged in the manufacture of specific goods fails to register machines as required under the **special procedure notified under Section 148**, they will be subject to a penalty.
- The penalty amount is **₹1,00,000 for each unregistered machine**.
- This penalty is **in addition** to any other penalties payable under Chapter XV or any other provisions of the CGST Act.

Seizure and Confiscation of Unregistered Machines:

- In addition to the penalty, every unregistered machine is liable to **seizure and confiscation**.
- However, the machine will not be confiscated if:
 - (a) The imposed penalty is paid, and
 - (b) The machine is registered according to the special procedure within **three days** of receiving the penalty order communication.

⁴⁸ Notification No. 16/2024-CT dated 06.08.2024 (w.e.f 1/10/2024)

SEGMENT - 19

DEMAND & RECOVERY

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 20

APPEALS AND REVISION

GSTAT ESTABLISHED W.E.F. 1ST SEPTEMBER 2023⁴⁹:

The Ministry of Finance has issued Notification to establish Goods and Services Tax Appellate Tribunal (GSTAT) with effect from September 1, 2023.

The Principal Bench of the GSTAT has been constituted at New Delhi and State Benches have been notified in certain locations in all states and UT's. State Benches are established in some circuit locations, and will be operational in such manner as the President may order, based on the number of appeals filed by suppliers in the respective States/jurisdictions.

FIXATION OF MONETARY LIMITS FOR FILING APPEALS OR APPLICATIONS BY THE DEPARTMENT BEFORE GSTAT, HIGH COURTS AND SUPREME COURT⁵⁰:

Following monetary limits have been fixed for filing appeal or application or Special Leave Petition, as the case may be, by the Central Tax officers before Goods and Service Tax Appellate Tribunal (GSTAT), High Court and Supreme Court:

Appellate Forum	Monetary Limit
GSTAT	₹20 lakhs
High Court	₹1 Crore
Supreme Court	₹2 Crore

Principles to be considered while determining whether a case falls within the above monetary limits or not:

S. No.	Dispute relates to demand of -	Amount to be considered for applying the monetary limit
1	Tax (with or without penalty and/or interest)	Only the aggregate amount of tax in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess)
2	Only interest	Amount of interest
3	Only Penalty	Amount of penalty
4	Only Late fee	Amount of late fee
5	Interest, penalty and/or late fee (without involving any disputed tax amount)	Aggregate amount of interest, penalty and late fee
6	Erroneous refund	Amount of refund in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess)

Note:

- Monetary limit shall be applied on the disputed amount of tax/interest/penalty/late fee, as the case may be, in respect of which appeal, or application is contemplated to be filed in a case.
- In a composite order which disposes more than one appeal/demand notice, the monetary limits shall be applicable on the total amount of tax/interest/penalty/late fee, as the case may be, and not on the amount involved in individual appeal or demand notice

⁴⁹ Notification No. S.O. 3048(E) dated 31.7.2024 (Ministry of Finance, Department of Revenue)

⁵⁰ Circular No. 207/1/2024-GST dated 26.06.2024

- Appeal should not be filed merely because the disputed tax amount involved in a case exceeds the monetary limits fixed above. Filing of appeal in such cases is to be decided on the merits of the case.
- Where appeal is not filed in pursuance of these instructions, such cases shall not have any precedent value.
- Non-filing of appeal based on the above 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.
- Where appeal is not filed solely on the basis of the above monetary limits, there will be no presumption that the Department has acquiesced in the decision on the disputed issues in the case of same taxpayers or in case of any other taxpayers.

Following cases to be taken on merits irrespective of the monetary limits:

1. Where any provision 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
2. Where any rules or regulations under CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act has been held to be ultra vires to the Parent Act
3. Where any order, notification, instruction, or circular issued by the Government or the Board has been held to be ultra vires of CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act or the Rules made thereunder
4. Where the matter is related to – a. Valuation of goods or services; or b. Classification of goods or services; or c. Refunds; or d. Place of Supply; or e. Any other issue, which is recurring in nature and/or involves interpretation of the provisions of the Act /the Rules/ notification/circular/order/instruction etc
5. Where strictures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers.
6. Any other case or class of cases, where in the opinion of the Board, it is necessary to contest in the interest of justice or revenue.

APPELLATE TRIBUNAL (GSTAT) NOTIFIED AND TIME LIMIT FOR FILING APPEAL AMENDED ACCORDINGLY – FINANCE ACT, 2024

- GST Appellate Tribunal (GSTAT) established w.e.f. 1/9/2023. The principal bench is constituted at New Delhi and state benches are also notified in many states.
- Time limit for filing appeal to GSTAT by taxpayer is within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal; or the date, as may be notified by the Government, on the recommendations of the Council, for filing appeal before the Appellate Tribunal under this Act, whichever is **later** (Notified date is 1/8/2024)
- Accordingly for adjudication orders passed before 1/8/2024 the time limit for filing appeal by taxpayer is 3 months from 1/8/2024.
- The commissioner may direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed; or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is **later** (Notified date is 1/8/2024)

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- Accordingly for adjudication orders passed before 1/8/2024 the time limit for filing appeal by department is 6 months from 1/8/2024.
- Condonation of delay in filing appeal by taxpayer or department is 3 months from the expiry of the above date.

APPEAL AGAINST ANTI-PROFITEERING ORDER SHALL BE HEARD BY PRINCIPAL BENCH OF GSTAT ONLY – FINANCE ACT, 2024

- Earlier issues relating to place of supply shall be heard by principal bench of GSTAT and not the state bench.
- Now, in case of issues relating to place of supply and anti-profiteering shall be heard only by principal bench. Also, Government, on the recommendation of GST council, notify any other cases or class of cases which can be heard only by principal bench.

CONSTITUTION OF GSTAT AND BENCHES THEREOF [SEC. 109] – FINANCE ACT, 2024:

- **Establishment of GSTAT:** The government forms GSTAT and its benches (Principal and State Benches) for hearing appeals related to GST disputes.
- **Principal Bench at Delhi:** Comprises a President, Judicial Member, Technical Member (Centre), and Technical Member (State). State Benches are established on state requests with similar composition.
- **Composition of members in the bench:**

Principal Bench	State Bench
President	
Judicial member	2 Judicial members (Senior most judicial member is vice president)
Technical member (Centre)	Technical member (Centre)
Technical member (State)	Technical member (State)

- **Distribution of Work:** The President can distribute or transfer cases between benches and appoints Vice-Presidents for State Benches.
- **Single Member Hearings:** Simple cases (disputes below ₹50 lakhs without question of law) may be heard by a single member, with other cases requiring two members (Judicial and Technical).
- **Handling Differences in Opinion:** If members differ in their decisions, the case is referred to another member for majority opinion resolution.
- **Transfers and Administrative Efficiency:** Members can be transferred between benches by the President, but Technical Members (State) must stay within their respective states unless specially approved.
- **Validity of Tribunal Acts:** Tribunal proceedings cannot be questioned or invalidated due to vacancies or minor defects in its constitution.

SEGMENT - 21

ADVANCE RULING

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 22

ETHICS AND OTHER PROVISIONS IN GST

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 23

TAXABLE EVENT UNDER CUSTOMS

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 24

EXEMPTION UNDER CUSTOMS

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 25

CLASSIFICATION OF GOODS AND TYPES OF CUSTOMS DUTIES

OMISSION OF PROTECTIVE DUTIES UNDER CUSTOMS – SECTION 6 OF CTA, 1975 – FINANCE ACT, 2024

Section 6 of the Customs Tariff Act, 1975 which provided for levy of protective duties in certain cases by the Central Government on the recommendations of the Tariff Commission is proposed to be omitted, as the Tariff Commission has been wound up by resolution dated 1st June 2022 by the Government of India.



SEGMENT - 26

VALUATION UNDER CUSTOMS

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 27
PROCEDURES, ASSESSMENT & AUDIT UNDER CUSTOMS

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 28

BAGGAGE PROVISIONS

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 29

STORES UNDER CUSTOMS

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 30
WAREHOUSING UNDER CUSTOMS

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 31

REUFUND UNDER CUSTOMS

NO AMENDMENTS IN THIS CHAPTER



SEGMENT - 32
FOREIGN TRADE POLICY

NO AMENDMENTS IN THIS CHAPTER

