



SECTION A: INPUT TAX CREDIT

SECTION B: RELATED PARTIES

SECTION C: WARRANTY CASES

SECTION D: SECTORIAL UPDATES

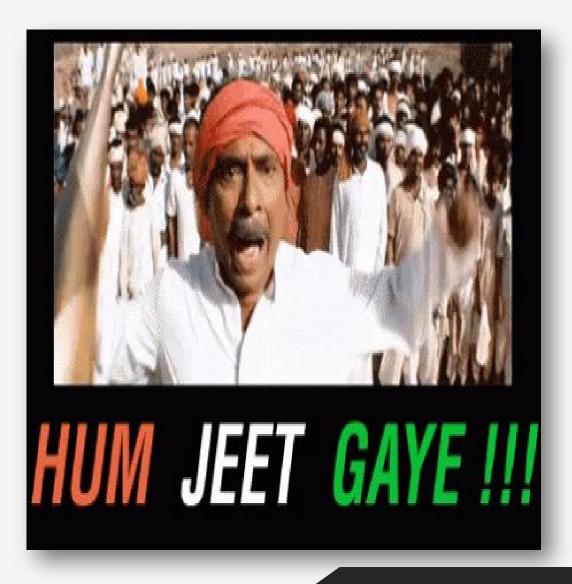
SECTION E: GST APPEALS BY DEPARTMENT



TIME LIMIT TO AVAIL ITC ON RCM (CIRCULAR NO. 211)



- Clarification for ITC on Reverse charge (RCM) for supplies received from unregistered persons;
- Input tax credit (ITC) on RCM credit available upon payment & issuance of self-invoice;
- Thus, even if RCM paid belatedly/subsequent year/(s) than the year of provision/expense, RCM credit allowed upon payment (interest shall be applicable for delay in payment);



TAX ADJUSTMENT - DOCUMENTATION (CIRCULAR NO. 212)



- Clarification issued for documents to be maintained in case of ITC reversal for post supply discounts;
- GST liability adjustment admissible for post supply discounts, if such discount is pre-agreed;
- In order to avail adjustment, Supplier needs to obtain following documentation: -
 - In case tax adjustment upto INR 5 lacs during a FY, selfdeclaration from recipient for reversal of proportionate ITC;
 - If tax amount more than INR 5 lacs during a FY, recipient shall provide CA certificate regarding such ITC reversal;
- Content of declaration/Certificate also provided (can be taken for previous years in case of pending/ongoing matters);
- Taxpayers may ask for such documentation from recipients in other similar cases also;
- Process similar to ITC mismatch/non-reporting declaration/certificate;





RELATED PARTIES



- Loan to Related party (Circular no. 218)
- No GST on interest payments (even if made to related party against loan);
- GST applicable only if any charges collected for advancement of loan/deposits (usually not in case of related parties);
- If no charges collected, not to be treated as deemed supply without consideration – No GST;

- > Valuation Import of Service from related parties (Circular No 210)
- In case recipient is entitled to full ITC, invoice value as determined between parties to be treated as open market value; (Even NIL acceptable in such cases);
- Relaxation similar to as extended for domestic cross charge;



RELATED PARTIES



- > Allotment of shares/securities by employer to its employees through its overseas holding company (Circular no. 213)
- Shares/securities are excluded from definition of 'goods' as well as 'services', thus no GST on issuance of same;
- No GST even if shares/securities of holding Company are allotted to Indian employee (even if reimbursed by Indian Company to Holding Company);
- GST applicable on any additional charges/fees over and above the cost of shares/securities;



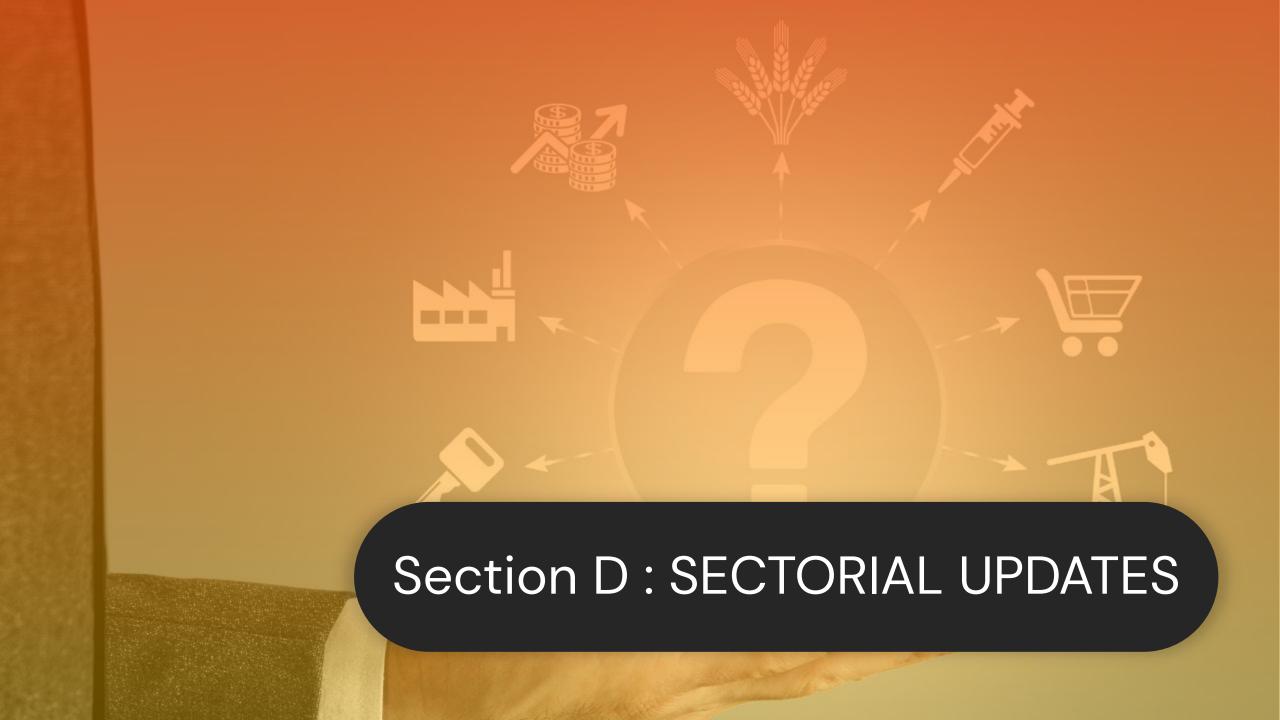


WARRANTY/EXTENDED WARRANTY (CIRCULAR NO. 216)



- Circular previously issued to clarify ITC eligibility as well as GST implications in case of warranty/extended warranty;
- Circular covered scenarios, where such warranty/extended warranty is offered by supplier himself as well as through a separate service provider;
- Clarification extended to provide that similar treatment be adopted for replacement of 'goods' also (earlier clarification only mentioned 'parts' & 'repair');
- Extended warranty, if provided by original supplier along with and at time of supply of product/service, to be treated as composite supply of product/service;
- Extended warranty provided by different supplier or at different point of time than original supply by same supplier of product/service to be treated as independent supply of service;





E-COMMERCE SUPPLIERS



- Bill to Ship to supplies for unregistered persons (Circular no. 209)
- Key clarification for E-commerce supplies (applicable in all cases though);
- In such cases, place of supply to be location of delivery address (linked with consumption);
- Delivery address to be updated as Billing address in such cases (not the Bill to location);



GOVERNMENT LICENSES



- RCM for Spectrum & usage of other natural resources (Circular No 222)
- In case of spectrum allocation from Government, GST under RCM is payable;
- In case full value is paid in single instance, GST liability on full payment becomes due;
- In case **payment is made in instalments** as agreed, the same is to be treated as case of **continuous supply of service**;
- In such cases, RCM liability linked with due instalment, to the extent of instalment amount;
- The above clarification shall also apply in respect of other usage charges for natural resources payable to Government;



INSURANCE



- GST levy on salvage value in case of total loss of motor vehicles (Circular No 215)
- If Insurance company pays full value without salvage deduction, salvage/wreckage becomes property of Insurance Company. GST leviable on sale proceeds of same;
- If salvage value is deducted from Claim amount for wreckage/salvage, then such belongs to policy holder - No GST; implication for Insurance Company;

- Valuation for Investment linked insurance plans (Circular No 214)
- Amount of premium invested/saving will not qualify as exempt supply;
- ITC reversal not applicable on such value (which is also excluded from taxable transaction value);



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INSURANCE



> ITC for reimbursement of Motor claims (Circular No 217)

- ITC available to Insurance companies in case of reimbursement claims also (provided Invoice is in name of Insurance Company);
- Payment by policy holder and reimbursement of same by Insurance Company to such policy holder is sufficient consideration;
- ITC available to the extent of payment made (not in respect of proportionate deduction);

OTHER SECTORS



- Banking Custodial services to Foreign Portfolio Investors (Circular No 220)
- Custodial services to FPIs will not be qualified as account holder service;
- Thus, place of supply of such services shall be determined by default rule i.e. location of recipient;

- > NHAI Time of Supply for HAM (Hybrid Annuity Model) (Circular No 221)
- HAM, being a comprehensive contract for Construction as well as O&M qualifies as continuous supply of service contract;
- Time of supply for GST to be linked with instalment as and when due per the HAM contract.

- Telecom ITC on Optical Fibre Cable Network (Circular No 219)
- Ducts/Manholes used in laying of OFC network qualifies as 'plant and machinery';
- ITC allowed for such expenses (not restricted as construction of immovable property);



FOR FILING APPEALS BY DEPARTMENT (CIRCULAR NO. 207)



· Recently GST council recommended to fix monetary limits for filing an appeals by department, which are as below:-

Forum	Monetary Limit (in INR)
GST Tribunal	20 lakhs
High Court	1 crore
Supreme Court	2 crores

• Clarifies manner of *monetary limits to be determined*, given as below:-

Disputed cases	Monetary limit (apply on)
Tax demand involved (with or without interest and/or penalty)	Aggregate of tax amount in dispute (all tax heads)
Standalone interest/penalty/late fee in dispute	Aggregate of interest/penalty/late fee in dispute
Only interest, penalty and/or late fee in dispute (without tax)	Aggregate of interest, penalty & late fee in dispute
Erroneous refund	Amount of refund in dispute (all tax heads)
Composite order (more than one appeal/demand notice)	Applicable for composite order (not individually)

FOR FILING APPEALS BY DEPARTMENT (CIRCULAR NO. 207)



- Monetary limits not applicable in below cases:-
 - ✓ Valuation/Classification/Refunds/place of supply/Other Routine in nature and/or involves interpretation issue;
 - ✓ Any matter related to ultra-vires to Constitution of India, GST Act, Rules, Notification, Instruction, Circular, order;
 - ✓ Stricture/Adverse comments and/or imposing any cost against Government/Department or their officers;
- o Non-filing of appeal by departments due to monetary limit, will not be considered as precedent in any other matter





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