



En Pointe Advisers

Navigating through complexity. Together.

**GST update – CBIC
circulars issued
dated 26th June 2024**





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A spiral-bound notebook with the words "TAX CRED" written in large, dark, hand-drawn letters. The notebook is placed on a surface with a stack of banknotes and a calculator. The background is a warm, orange-toned image. The calculator is a light-colored, physical one with several buttons visible, including a plus sign and an equals sign. The banknotes are partially visible, showing some text and numbers like "790".

TAX
CRED

SECTION A : INPUT TAX CREDIT

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, self-declaration 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;



A warm, orange-toned photograph of a person's hands working at a desk. One hand is writing in a spiral notebook with a red pen, while the other hand is positioned over a calculator. The scene is softly lit, with a pair of glasses and paper clips visible in the background.

SECTION B : RELATED PARTIES

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;



- 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;



A wooden gavel is positioned vertically on top of an open book. The book is open to a page with some text, though it is out of focus. The entire scene is set on a wooden desk. In the background, there are several wooden chairs, suggesting a courtroom or a formal meeting room. The lighting is warm and slightly dim, creating a professional and serious atmosphere.

SECTION C : WARRANTY CASES

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;**





Section D : SECTORIAL UPDATES

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);



Nahin Lgega

➤ **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);



Appeal

Section E : GST APPEALS BY DEPARTMENT

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;***
- Non-filing of appeal by departments due to monetary limit, will not be considered as precedent in any other matter





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