

Circular Updates

Sl. No.	Circular No.	Key clarifications provided	Deloitte Comments
1.	207/1/2024-GST	<p>Reduction of Government Litigation – fixing monetary limits for filing appeals or applications by the Department</p> <ul style="list-style-type: none"> Section 120 of the CGST Act, 2017 empowers CBIC for fixing the monetary limits for filing of appeal or application by the tax authorities. In the said circular, following monetary limit has been set: <ul style="list-style-type: none"> GSTAT: INR 20,00,000 High Court: INR 1,00,00,000 Supreme Court: INR 2,00,00,000 The circular provides how monetary limits apply based on whether disputes involve tax, interest, penalty, late fee, or refund. Appeals must be pursued irrespective of monetary limits in cases involving constitutional validity, ultra vires rules or orders, significant recurring issues, adverse judicial remarks, or cases deemed necessary for justice or revenue protection. Emphasizes merit-based decisions, cautioning against automatic appeals solely based on exceeding monetary limits and directs authorities to consider overall litigation reduction goals and taxpayer certainty in tax assessments. The circular clarifies that non-filing of appeals based on monetary limits does not establish precedents. Reasons for non-filing must be explicitly stated, and it does not imply departmental acceptance of disputed issues solely due to monetary constraints. 	<p>The Circular certainly brings relief to the tax payers aiming to streamline litigation, ensuring appeals are filed judiciously to uphold legal standards while addressing the interests of justice and revenue protection.</p>
2.	208/2/2024-GST	<p>Special procedure for the manufacturers of the specified commodities as per Notification No. 04/2024 - Central Tax</p> <ul style="list-style-type: none"> Notification No. 04/2024-Central Tax notified special procedure to be followed by a registered person engaged in manufacturing of the goods such as Pan 	<p>This clarification aims to enhance clarity and compliance for manufacturers of specified goods under the GST regime, ensuring smooth implementation and adherence to legal requirements.</p>

		<p>masala, Tobacco and in these following key clarifications are provided:</p> <ul style="list-style-type: none"> - Machine details: Make and Model numbers are optional in FORM GST SRM-I. Manufacturers using old or second-hand packing machines may declare the year of purchase as the make number if make/model details are unavailable. Machine number is mandatory, and if not available, a numeric number may be assigned and documented. - Electricity Consumption Rating: If electricity consumption rating is not documented on the machine or records, manufacturers can have it certified by a Chartered Engineer using Form GST SRM-III. The certificate must accompany Form GST SRM-I. - MRP: For goods without an MRP (e.g., those manufactured for export), the sale price should be reported in Column 8 of Table 9 of Form GST SRM-II. • The special procedure under Notification No. 04/2024-Central Tax does not apply to manufacturing units in Special Economic Zones (SEZs). • Manual packing operations and manual sealers/seamers are not covered by the special procedure. • In cases involving multiple machines for different stages of packaging, the machine used for final packing should be specified in Table 6 of Form GST SRM-I. • The special procedure applies to all parties involved in manufacturing, including job workers and contract manufacturers. Unregistered job workers fall under the responsibility of the principal manufacturer. 	
3.	209/3/2024-GST	<p>Place of supply of goods to unregistered persons</p> <ul style="list-style-type: none"> • Clause (ca) of Section 10(1) of the IGST Act, 2017 provides that for supplies to unregistered persons, the place of supply is determined based on the address recorded in the invoice. If the address of the 	<ul style="list-style-type: none"> • The amendment (clause (ca)) and subsequent clarification ensure that in situations where goods are supplied to unregistered persons via e-commerce or other means, the place of supply is based on the delivery address mentioned on the invoice. • This Circular aims to provide clarity and uniformity in tax implementation across

		<p>unregistered person is not recorded, the location of the supplier is considered.</p> <ul style="list-style-type: none"> Explanation to the said clause clarifies that mentioning the State name of the unregistered person on the invoice equates to recording their address. Clarification provided on clause (ca), especially in e-commerce platform, where billing address (State X) differs from delivery address (State Y) affirming that the place of supply for goods supplied to an unregistered person is determined by the delivery address recorded on the invoice. Therefore, in cases where the billing address (State X) differs from the delivery address (State Y), the place of supply is State Y (delivery address). The supplier should record the delivery address as the address of the recipient on the invoice for determining the place of supply. 	<p>different scenarios involving supply to unregistered persons, with varying billing and delivery addresses.</p>
4.	210/4/2024-GST	<p>Clarification with respect to valuation of services imported by a related domestic person from its foreign affiliate:</p> <ul style="list-style-type: none"> In cases where a related domestic person has imported services from its foreign affiliate and full input tax credit is available to the said related domestic entity for such services, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value. Further, in cases where full input tax credit is available to the recipient, but the invoice is not issued by the related domestic person, the value of such services may be deemed to be declared as Nil and may be deemed as open market value. 	<ul style="list-style-type: none"> This circular effectively nullifies the deemed supply provision under Schedule I entry 4 in so far as it relates to a recipient entitled for full input tax credit. The said circular will help in reducing the blockage of cash paid under reverse charge mechanism. The clarification will help in reduction of litigation with respect to non-payment of tax on services imported from related parties.
5.	211/5/2024-GST	<p>Clarification with respect to time limit under Section 16(4) of CGST Act, 2017 in respect of RCM supplies received from unregistered persons</p> <ul style="list-style-type: none"> In cases of supplies received from unregistered suppliers, where the recipient is required to issue self-Invoice and tax has to be paid under RCM, the time limit for availment of input tax credit will be 	<p>The Circular certainly brings relief to all matters where credit has been availed by Companies on RCM basis belated invoices. However, the interest and penalty may add on to the costs for delayed payments.</p>

		<p>calculated from the financial year in which the invoice has been issued by the recipient.</p> <ul style="list-style-type: none"> In case, the recipient issues the invoice after the time of supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action. 	
6.	212/6/2024-GST	<p>The circular provides a mechanism to suppliers for providing evidence of compliance of conditions for exclusion of post-sale discounts from the value of supply to the effect that ITC has been reversed by the recipient on the said amount.</p> <ul style="list-style-type: none"> Till the time a functionality/ facility is made available on the common portal, supplier may procure a certificate from the recipient of supply, issued by the Chartered Accountant (CA) or the Cost Accountant (CMA) where the value of discount is more than INR 5 lacs, certifying that the recipient has made the required proportionate reversal of input tax credit at his end in respect of such credit note issued by the supplier, along with prescribed details as given in para 2.5 of the circular. Where amount is not exceeding 5 lacs, supplier may procure an undertaking/ certificate from the said recipient that the said input tax credit attributable to such discount has been reversed by him, along with prescribed details as given in para 2.5 of the circular. 	<p>This Circular has been issued in the backdrop of the decision rendered by the Hon'ble Rajasthan High Court in the case of Hindustan Unilever Limited.</p> <p>The Modus Operandi prescribed in this Circular is inline with Circular No: 183/15/2022-GST dated 27 December 2022.</p> <p>The circular will help in reduction of litigation wherein the officers have questioned whether the recipient has reversed the ITC attributable to the post sale discounts.</p>
7.	213/7/2024-GST	<p>Clarification on taxability of re-imbusement of securities/shares as ESOP/ESPP/RSU provided by a company to its employees:</p> <ul style="list-style-type: none"> It has been clarified that no supply of service appears to be taking place between the foreign holding company and the domestic subsidiary company where the foreign holding company issues ESOP/ESPP/RSU to the employees of domestic subsidiary company, and the domestic subsidiary company reimburses the cost of such securities / shares to the 	<p>The circular effectively clarifies that ESOP/ RSUs is not a supply and hence, no GST in the hands of the domestic subsidiary company.</p> <p>The circular further states that, in case there is a charge, only that charge suffers GST but it's not mandatory to have a charge.</p> <p>The aspect of a charge needs to be read along with the circular on valuation of import of services.</p> <p>The taxability on ESOP transaction has been mainly picked up in the state of Karnataka and</p>

		<p>foreign holding company on cost-to-cost basis.</p> <ul style="list-style-type: none"> Further, the circular clarifies that in cases where an additional amount over and above the cost of securities/shares is charged by the foreign holding company, GST would be leviable under RCM on such additional amount charged as consideration. 	<p>this clarification will resolve dilemma regarding the taxability of ESOP transactions thereby settling the on-going litigations.</p>
8.	214/8/2024-GST	<p>Clarification on requirement of reversal of input tax credit in respect of the portion of the premium of life insurance policies which is not included in taxable value:</p> <ul style="list-style-type: none"> The value of supply for premium received on life insurance policies is determined as per Rule 32(4) of CGST Rules, 2017. The issue that is addressed is with respect to classification of the portion of supply on which tax is not paid. It has been clarified that just because some amount of consideration is not included in value of taxable supply as per the provisions of the statute, it cannot be said that the said portion of consideration becomes attributable to a non-taxable or exempt supply. Considering the above, premium for taxable life insurance policies, which is not included in the taxable value cannot be considered as pertaining to a non-taxable or exempt supply and therefore, there is no requirement of reversal of input tax credit as per provisions of Rule 42 or rule 43 of CGST Rules. 	<p>The said clarification provides much needed relief to the insurance sector. The circular clarifies that that levy of tax on an abated value does not recognize the transaction as exempt supply to necessitate ITC Reversal.</p> <p>This clarification will be helpful in putting to rest various ongoing litigations.</p>
9.	215/9/2024-GST	<p><u>Taxability of salvage/ wreck value earmarked in the claim assessment of the damage caused to the motor vehicle.</u></p> <ul style="list-style-type: none"> It is clarified that in cases where due to the conditions mentioned in the contract itself, general insurance companies are deducting the value of salvage as deductibles from the claim amount, the salvage remains the property of insured and insurance companies are not liable to discharge GST liability on the same. 	<p>This is a welcome move for the insurance sector as in the absence of ownership of such wreck and salvage components, insurance companies should not be liable to GST. This empowers ease of business for insurance sector.</p>

		<ul style="list-style-type: none"> In cases where the insurance claim is settled on full claim amount, without deduction of value of salvage/ wreckage (as per the terms of the contract), the salvage becomes the property of the insurance company, and the insurance company will be obligated to discharge GST on supply of salvage to the salvage buyer. 	
10.	216/10/2024-GST	<p>Clarification in respect of GST liability and input tax credit (ITC) availability in cases involving Warranty/ Extended Warranty:</p> <ul style="list-style-type: none"> Where supply of extended warranty is made subsequent to the original supply of goods, the supply of extended warranty shall be treated as a supply of services distinct from the original supply of goods. Supplier of the said extended warranty shall be liable to discharge GST liability applicable on such supply of services 	<p>Circular No. 195/07/2023 issued earlier had clarified on various aspects of warranty/extended warranty. The present circular clarifies that extended warranty services is to be treated as a separate supply from the original supply of goods and shall be liable to GST.</p>
11.	217/11/2024-GST	<p>Entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode.</p> <ul style="list-style-type: none"> It is clarified that ITC is available to Insurance Companies in respect of motor vehicle repair expenses incurred by them in case of reimbursement mode of claim settlement as invoices are received by insurance Company being the service recipient, as consideration is being paid by them. In case of partial settlement of insurance claim, it is clarified that insurance Company shall be eligible to avail ITC only to the extent insurance company makes reimbursement to the insured only for the approved claim cost and not the full invoice value. In case invoice is not in the name of insurance company, ITC shall not be eligible as conditions of section 16 are not satisfied. 	<p>The said clarification provides much needed relief to the insurance sector wherein ITC is available irrespective of the mode of settlement.</p> <p>This clarification will help reduce claim cost , consequently enabling seamless credit flow. This will not only help in ensuring that objective of GST is achieved, but also promote larger network of garages in the supply chain.</p> <p>The said clarification should equally be applicable for all forms of reimbursement including employee reimbursements as long as invoices are issued in the name of the Company</p>
12.	218/12/2024-GST	<p>Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person.</p>	<p>This is a welcome move in light of various litigations faced by the industry by invoking the provisions of Schedule I of CGST Act for transactions between related persons.</p>

		<ul style="list-style-type: none"> Where no consideration is charged by the person from the related person, or by an overseas affiliate from its Indian party, for extending loan or credit, other than by way of interest or discount, it cannot be said that any supply of service is being provided between the said related persons. Accordingly, there is no question of levy of GST on the same by resorting to open market value for valuation. In cases of loans provided between related parties, wherever any fee is charged, over and above the amount charged by way of interest or discount, the same is liable to GST. 	<p>The Circular rightly distinguishes between loans facilitated between unrelated persons who are required to ascertain the credit worthiness of customers as against the loans provided between related persons where such credit worthiness is not required to be ascertained/readily available with related entity.</p>
13.	219/13/2024-GST	<p>Clarification on availability of input tax credit on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5) of the CGST Act, 2017 - reg.</p> <p>It is clarified that ducts and manholes used in network of optical fiber cables (OFCs) have not been specifically excluded from the definition of “plant and machinery” in the Explanation to section 17 of CGST Act, as they are neither in nature of land, building or civil structures. Hence, ITC is not restricted in respect of such ducts and manhole used in network of optical fiber cables (OFCs) under section 17(5) of CGST Act</p>	<p>The clarification will largely benefit the telecommunication sector.</p> <p>In case where litigations are pending on account of interpretation of plant and machinery, the taxpayers may exploring relying on the instant Circular.</p>
14.	220/14/2024-GST	<p>Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors “FPI”</p> <ul style="list-style-type: none"> It has been noted that the custodial services provided by banks to FPIs does not fall within the ambit of services provided to account holders. Accordingly, the place of supply of the said service is not determined u/s 13(8)(a) i.e., POS shall be location of supplier of services. Further, it is clarified that the place of supply for custodial services provided by banks to FPI’s shall be determined by the residuary 	<p>The Circular provides clear distinction between what constitutes services to account holders and custodial services.</p> <p>Also, it provides clarity and uniformity in tax implementation across scenarios involving services provided by Banks to Foreign Portfolio Investors</p>

		provisions i.e., Section 13(2) of IGST Act which states that the POS shall be location of the recipient of services.	
15.	221/15/2024-GST	<p>Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of NHAI in Hybrid Annuity Mode (HAM) model</p> <ul style="list-style-type: none"> • It is clarified that the tax liability on the concessionaire under the HAM contract, including on the construction portion, would arise at the time of issuance of invoice, or receipt of payments, whichever is earlier, if the invoice is issued on or before the specified date or the date of completion of the event specified in the contract, as applicable. • If invoices are not issued on or before the specified date or the date of completion of the event specified in the contract, tax liability would arise on the date of provision of the said service (i.e., the due date of payment as per the contract), or the date of receipt of the payment, whichever is earlier. • It is also clarified that as installments/annuity payable by NHAI to the concessionaire also includes some interest component, the amount of such interest shall also be includible in the taxable value for the purpose of payment of tax on the said annuity/installment in view of the provisions of section 15(2)(d) of the CGST Act. 	The Circular would be relevant in cases where the determination of time of supply is to be made for long term contracts (continuous supply of services) where the payment of the same is spread over the years.
16.	222/16/2024-GST	<p>Clarification on time of supply of services of spectrum usage and other similar services under GST</p> <ul style="list-style-type: none"> • It is clarified that, in case where full upfront payment is made by the telecom operator, GST would be payable when the payment of the said upfront amount is made or is due, whichever is earlier, whereas in case where deferred payment is made by the telecom operator in specified installments, GST 	This circular would be relevant in similar matters where the time of supply is to be determined.

would be payable as and when the payments are due or made, whichever is earlier.

- It is also clarified that the similar treatment would apply in other cases also where any natural resources are being allocated by the government to the bidder/ purchaser for right to use the said natural resource over a period of time, constituting continuous supply of services, with the option of payments either through an upfront payment or in deferred periodic installments.
- The Circular has clarified that the Frequency Assignment Letter (FAL) is in the nature of a bid acceptance document and not considered akin to a document in lieu of an invoice.