412th Issue: 23rd July 2023-29th July 2023

TAX CONNECT

Knowledge Partner:

BCC&I THE BENGAL CHAMBER

FEMA. FDI. INCOME TAX. GST. LAND. LABOUR

TAX CONNECT :

Mumbai : Unit No. 312, Omega Business Park, Near-Kaamgar Hospital, Road No. 33, Wagle Industrial Estate Thane (West), Maharashtra – 400604
Bengaluru : 46/4, GB Palya, Kudlu Gate, Hosur Road, Bengaluru, Karnataka – 560068.
Delhi (NCR) : B-139, 2nd Floor, Transport Nagar, Noida-201301 (U.P)
Kolkata : 6, Netaji Subhas Road, 3rd Floor, Royal Exchange Building, Kolkata – 700001
- Room No. 119, 1st Floor, "Diamond Arcade" 1/72, Cal Jessore Road, Kolkata – 700055
- Tobacco House, 1, Old Court House St, Radha Bazar, Corner, Kolkata, West Bengal 700001
Dubai : Azizi Feirouz, 803, 8th Floor, AL Furjan, Opposite Discovery Pavillion, Dubai, UAE

Contact : **+91 7003384915**

Website : www.taxconnect.co.in
Email : info@taxconnect.co.in

EDITORIAL

Friends,

Aiming to plug tax evasion through fake billing, Centre has brought the GST Network (GSTN) under the purview of Prevention of Money Laundering Act (PMLA). This will give more power to the Enforcement Directorate (ED), the anti-money laundering agency, to act against tax evasion within GSTN. This notification issued on 7th July 2023 under the powers bestowed under PMLA Act 2002, allows the Enforcement Directorate (ED) to share relevant information or material with GSTN if they have reasons to believe that there has been a violation of the Goods and Services Tax (GST) provisions. The move to include GSTN under the money laundering law comes amid rising cases of GST fraud and fake registrations. Experts said under the money laundering provisions, tax authorities will get more power to trace the original beneficiary in case of fraud.

The modus operandi will be that ED will share relevant information about evasion of GST with the GSTN who will intimate the Commissioner and prosecution launched if the Commissioner is satisfied with the information, then an FIR may be filed to launch prosecution. The question asked many times is that whether so many agencies under so many Acts can move in the same matter at the same time. We will try to answer this question.

Section 26 of the General Clauses Act, 1897 states that "Provisions as to offences punishable under two or more enactments - Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence." The same was also held by the Hon'ble Supreme Court in The State of Maharashtra & another v. Sayyed Hassan Sayyed Subhan & others in Criminal Appeal No.1195 of 2018, dated 20.09.2018.

Hence in case FIR is registered under The Indian Penal Code and under Section 132of the CGST Act, 2017, it can lead to Criminal proceedings. Also, if compounding is done under CGST Act, it shall not affect any proceedings for the offences under IPC, such as, Sections 379 and 414 IPC and the same shall be proceeded with further which comes out of the judgement of The Hon'ble Supreme Court in Jayant and others v. State of Madhya Pradesh with one analogous case; The same was also held by THE HIGH COURT OF JHARKHAND ANUPAM KUMAR PATHAK Vs THE STATE OF JHARKHAND AND OTHERS [2023-VIL-420- JHR].

So, the Ministry of Finance has made its intention very clear. Every case of Economic irregularity will be dealt with by any and all agencies in close co-ordination with each other. The agencies will not be compartmentalised while dealing with financial irregularities.

Just to reiterate that we remain available over telecom or e-mail.

Editor:
Vivek Jalan
Partner - Tax Connect Advisory Services LLP

Co-Editor:
Rohit Sharma
Director – Tax Connect Advisory Services LLP

SYNOPSIS

TAX CALENDAR

Due Date	Form/Return/Challan	Reporting Period	Description
31st July	**ITR Filing**	**FY 2022-23**	Return of income for the assessment year 2023-24 for all assessee other than (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A applies or (d) an assessee who is required to furnish a report under section 92E.
31st July	**Non-TDS Return by banking company**	**April-June 2023**	Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending June 30, 2023
31st July	**Statement under rules 5D, 5E & 5F**	**IF ITR is filed on 31.07.2023**	Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is July 31, 2023)
31st July	**Form No. 10BBB**	**April-June 2023**	Intimation in Form 10BBB by a pension fund in respect of each investment made in India for the quarter ending June, 2023
31st July	**Intimation in Form II**	**April-June 2023**	Intimation in Form II by Sovereign Wealth Fund in respect of investment made in India for the quarter ending June, 2023

INCOME TAX

NOTIFICATION

NO DEDUCTION OF TAX SHALL BE MADE U/S 194 OF THE IT ACT 1961 FROM ANY INCOME IN THE NATURE OF DIVIDEND PAID BY ANY UNIT OF AN INTERNATIONAL FINANCIAL SERVICES CENTRE [ENGAGED IN THE BUSINESS OF LEASING OF AN AIRCRAFT]

OUR COMMENTS: The Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, vide Notification No. 52/2023 Dated 20.07.2023 notified In exercise of the powers conferred by sub-section (1F) of section 197A read with clause (34B) of section 10 of the Income-tax Act, 1961 (43 of 1961) (hereinafter the Income-tax Act), the Central Government hereby specifies that no deduction of income tax shall be made under section 194 of the Income-tax Act from any income in the nature of dividend paid by any unit of an International Financial Services Centre, primarily engaged in the business of leasing of an aircraft (hereinafter referred as payer) to a company, being a Unit of an International Financial Services Centre primarily engaged in the business of leasing of an aircraft (hereinafter referred as payee) subject to the following-

(a) The payee shall, -

(i) furnish a statement-cum-declaration in Form No. 1 to the payer giving details of previous year relevant to the assessment year in which the dividend income eligible for exemption under clause (34B) of section 10 of Income-tax Act is payable.

(ii) such statement-cum-declaration shall be furnished and verified in the manner prescribed in Form No. 1 for the previous year relevant to the assessment year in which the dividend income eligible for exemption under clause (34B) of section 10 of Income-tax Act is payable.

(b) The payer shall, -

(i) not deduct tax on payment made or credited to the recipient of such dividend (payee) after the date of receipt of copy of statement-cum-declaration in Form No. 1 from payee; and

(ii) furnish the particulars of all the payments made to the recipient of such dividend on which tax has not been deducted in view of this Notification in the statement of deduction of tax referred to in sub-section (3) of section 200 of the Income-tax Act, read with the rule 31A of the Income-tax Rules, 1962.

2. The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down procedures, formats and standards for ensuring secure capture and transmission of data and uploading of documents and the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies.

Explanation. - For the purpose of this notification, -

(a) "aircraft" shall have the same meaning assigned to it in the Explanation to clause (4F) of section 10 of the Income-tax Act;

(b) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005); and

(c) "Unit" shall have the same meaning as assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).

3. This notification shall come into force from 1st September, 2023.

[For further details please refer the Notification]

NOTIFICATION

AMENDMENT TO INCOME-TAX RULE 11UAC – RELOCATION OF FUND & MOVABLE PROPERTY

OUR COMMENTS: The Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, vide Notification No. 51/2023 Dated 18.07.2023 notified In exercise of the powers conferred by clause (XI) of the proviso to clause (x) of sub-section (2) of section 56 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:–

1. Short title and commencement. –

(1) These rules may be called the Income-tax (Thirteenth Amendment) Rules, 2023.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962, in rule 11UAC,

(i) in sub-rule (4), in the Explanation, for the words "this clause" the words "this sub- rule" shall be substituted;

(ii) after sub-rule (4), the following sub-rule shall be inserted, namely: —

'(5) any movable property, being shares or units or interest in the resultant fund received by the fund management entity of the resultant fund, in lieu of shares or units or interest held by the investment manager entity in the original fund, pursuant to the relocation, subject to the following conditions, namely: -

(i) not less than ninety per cent of shares or units or interest in the fund management entity of the resultant fund are held by the same entity(ies) or person(s) in the same proportion as held by them in the investment manager entity of the original fund; and

(ii) not less than ninety per cent of the aggregate of shares or units or interest in the investment manager entity of the original fund was held by such entity(ies) or person(s).

Explanation. — For the purposes of this sub-rule, —

(a) the expressions "relocation", "original fund" and "resultant fund" shall have the meanings respectively assigned to them in the Explanation to clause (viiac) and clause (viiad) of section 47;

(b) "fund management entity" shall have the same meaning as provided in the sub-clause (p) of regulation 2 of the International Financial Services Centres Authority (Fund Management) Regulations, 2022; and

(c) "investment manager entity" means the fund manager of the original fund regulated by the respective regulation of the jurisdiction in which the original fund is located.'

[For further details please refer the Notification]

NOTIFICATION

INCOME TAX RULES 1962 AMENDMENT: INTERNATIONAL FINANCIAL SERVICES CENTERS (IFSC) RELATED PROPOSALS IN FINANCE ACT 2023.

OUR COMMENTS: The Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, vide Notification No. 50/2023 Dated 17.07.2023 notified In exercise of the powers conferred by clause (i) of sub-section (3) of section 80LA, clause (4E) of section 10, sub-section (7) of section 115UB, clause (d) of sub-section (8) of section 139A and clause (ii) of sub-section (7) of section 206AA read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. Short title and commencement. —

(1) These rules may be called the Income-tax (Twelfth Amendment) Rules, 2023.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules),

(i) in rule 21AK, for sub-rule (1), the following sub-rule shall be substituted, namely: —

"(1) The income accrued or arisen to, or received by, a non-resident as a result of

(a) transfer of non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives; or

(b) distribution of income on offshore derivative instruments,

under clause (4E) of section 10 of the Act, shall be exempted subject to fulfilment of the following conditions, namely: —

(i) the non-deliverable forward contract or offshore derivative instrument or over-the-counter derivative is

entered into by the non-resident with an offshore banking unit of an International Financial Services Centre which holds a valid certificate of registration granted under International Financial Services Centres Authority (Banking) Regulations, 2020 by the International Financial Services Centres Authority; and

(ii) such contract, instrument or derivative is not entered into by the non-resident through or on behalf of its permanent establishment in India.";

(ii) in rule 114AAB, in the Explanation, for clause (a), the following clause shall be substituted, namely: —

'(a) "specified fund" means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019) and which is located in any International Financial Services Centre or a specified fund referred to in sub-clause (i) of clause (c) of Explanation to clause (4D) of section 10;'.

3. In the principal rules, in APPENDIX II,—

(i) for Form No. 10CCF, has been substituted by a specified form as mentioned in the notification,

(ii) in Form No. 64D, -

(A) against serial number 7, for paragraph (i), the following paragraph shall be substituted, namely: —

"(i) Whether registered as Alternative Investment Fund with Securities and Exchange Board of India under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 or the International Financial Services Centres Authority (Fund Management) Regulations, 2022:"

(B) in serial number 12, for the paragraph starting with "Attach a copy of the certificate of registration" and ending with "Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.", the following paragraph shall be substituted, namely:— "Attach a copy of the certificate of registration under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 or the International Financial Services Centres Authority (Fund Management) Regulations, 2022."

[For further details please refer the Notification]

GST

NOTIFICATION
EXTENSION TO AMNESTY FOR GSTR-10 NON-FILERS

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 26/2023-Central Tax dated 17.07.2023 notified In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, the Ministry of Finance (Department of Revenue), No. 08/2023– Central Tax, dated the 31st March, 2023 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 1563(E), dated the 31st March, 2023, namely: —

In the said notification, for the words, letter and figure "30th day of June, 2023" the words, letter and figure "31st day of August, 2023" shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 30th day of June, 2023.

[For further details please refer the Notification]

NOTIFICATION
EXTENSION TO AMNESTY FOR GSTR-9 NON-FILERS

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification 25/2023-Central Tax dated 17.07.2023 notified In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, the Ministry of Finance (Department of Revenue), No. 07/2023– Central Tax, dated the 31st March, 2023 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 250(E), dated the 31st March, 2023, namely: —

In the said notification, in the proviso, for the words, letter and figure "30th day of June, 2023" the words, letter and figure "31st day of August, 2023" shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 30th day of June, 2023.

[For further details please refer the Notification]

NOTIFICATION
AMNESTY SCHEME FOR DEEMED WITHDRAWAL OF ASSESSMENT ORDERS ISSUED UNDER SECTION 62

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification 24/2023-Central Tax dated 17.07.2023 notified In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, the Ministry of Finance (Department of Revenue), No. 06/2023– Central Tax, dated the 31st March, 2023 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 249(E), dated the 31st March, 2023, namely: —

In the said notification, for the words, letter and figure "30th day of June, 2023" the words, letter and figure "31st day of August, 2023" shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 30th day of June, 2023.

[For further details please refer the Notification]

NOTIFICATION
EXTENSION OF TIME LIMIT FOR APPLICATION FOR REVOCATION OF CANCELLATION OF REGISTRATION UNDER CGST ACT

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification 23/2023-Central Tax dated 17.07.2023 notified In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, the Ministry of Finance (Department of Revenue), No. 03/2023– Central Tax, dated the 31st March, 2023 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 246(E), dated the 31st March, 2023, namely: —

In the said notification, for the words, letter and figure "30th day of June, 2023" the words, letter and figure "31st day of August, 2023" shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 30th day of June, 2023.

[For further details please refer the Notification]

NOTIFICATION

EXTENSION OF AMNESTY FOR GSTR-4 NON-FILERS

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification 22/2023-Central Tax dated 17.07.2023 notified In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, the Ministry of Finance (Department of Revenue), No. 73/2017– Central Tax, dated the 29th December, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1600(E), dated the 29th December, 2017, namely: —

In the said notification, in the seventh proviso, for the words, letter and figure "30th day of June, 2023" the words, letter and figure "31st day of August, 2023" shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 30th day of June, 2023.

[For further details please refer the Notification]

NOTIFICATION

EXTENDED DUE DATE FOR FURNISHING FORM GSTR-7 FOR APRIL, MAY AND JUNE, 2023 FOR REGISTERED PERSONS WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THE STATE OF MANIPUR

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification 21/2023-Central Tax dated 17.07.2023 notified In exercise of the powers conferred by sub-section (6) of section 39 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 26/2019 –Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.452(E), dated the 28th June, 2019, namely:–

In the said notification, in the first paragraph, in the fifth proviso:-

(i) for the words, letter and figure "months of April 2023 and May 2023" the words, letter and figure "months of April 2023, May 2023 and June 2023" shall be substituted;

(ii) for the words, letters and figure "thirtieth day of June, 2023", the words, letter and figure "thirty-first day of July, 2023" shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 30th day of June, 2023.

[For further details please refer the Notification]

NOTIFICATION

EXTENDED DUE DATE FOR FURNISHING FORM GSTR-3B FOR QUARTER ENDING JUNE'2023 FOR REGISTERED PERSONS WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THE STATE OF MANIPUR

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification 20/2023-Central Tax dated 17.07.2023 notified In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby extends the due date for furnishing the return in FORM GSTR-3B for the quarter ending June, 2023 till the thirty-first day of July, 2023, for the registered persons whose principal place of business is in the State of Manipur and are required to furnish return under proviso to sub-section (1) of section 39 read with clause (ii) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017.

[For further details please refer the Notification]

NOTIFICATION

EXTENDED DUE DATE FOR FURNISHING FORM GSTR-3B FOR APRIL, MAY AND JUNE, 2023 FOR REGISTERED PERSONS WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THE STATE OF MANIPUR

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification 19/2023-Central Tax dated 17.07.2023 notified In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2023 – Central Tax, dated the 24th May, 2023, published in the Gazette of India,

Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 385(E), dated the 24th May, 2023, namely: —

(i) for the words, letter and figure "months of April, 2023 and May, 2023" the words, letter and figure "months of April, 2023, May, 2023 and June, 2023" shall be substituted;

(ii) for the words, letters and figure "thirtieth day of June, 2023", the words, letter and figure "thirty-first day of July, 2023" shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 30th day of June, 2023.

[For further details please refer the Notification]

NOTIFICATION

EXTENDED DUE DATE FOR FURNISHING FORM GSTR-1 FOR APRIL, MAY AND JUNE, 2023 FOR REGISTERED PERSONS WHOSE PRINCIPAL PLACE OF BUSINESS IS IN THE STATE OF MANIPUR

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification 18/2023-Central Tax dated 17.07.2023 notified In exercise of the powers conferred by the proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 83/2020 – Central Tax, dated the 10th November, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 699(E), dated the 10th November, 2020, namely: —

In the said notification, in the fourth proviso: -

(i) for the words, letter and figure "tax periods April 2023 and May 2023", the words, letter and figure "tax periods April 2023, May 2023 and June 2023" shall be substituted;

(ii) for the words, letters and figure "thirtieth day of June, 2023", the words, letter and figure "thirty-first day of July, 2023" shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 30th day of June, 2023.

[For further details please refer the Notification]

CIRCULAR

CLARIFICATION REGARDING TAXABILITY OF SERVICES PROVIDED BY AN OFFICE OF AN ORGANISATION IN ONE STATE TO THE OFFICE OF THAT ORGANISATION IN ANOTHER STATE, BOTH BEING DISTINCT PERSONS

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide circular 199/11/2023-GST dated 17.07.2023 circulated Various representations have been received seeking clarification on the taxability of activities performed by an office of an organisation in one State to the office of that organisation in another State, which are regarded as distinct persons under section 25 of Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act'). The issues raised in the said representations have been examined and to ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies the issue in succeeding paras.

2. Let us consider a business entity which has Head Office (HO) located in State-1 and a branch office (BOs) located in other States. The HO procures some input services e.g. security service for the entire organisation from a security agency (third party). HO also provides some other services on their own to branch offices (internally generated services).

3. The issues that may arise with regard to taxability of supply of services between distinct persons in terms of sub-section (4) of section 25 of the CGST Act are being clarified in the Table below: -

S.No	Issues	Clarification
1.	Whether HO can avail the input tax credit (hereinafter referred to as 'ITC') in respect of common input services procured from a third party but attributable to both HO and Bos or exclusively to one or more BOs, issue tax invoices under section 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow the Input Service Distributor	It is clarified that in respect of common input services procured by the HO from a third party but attributable to both HO and BOs or exclusively to one or more BOs, HO has an option to distribute ITC in respect of such common input services by following ISD mechanism laid down in Section 20 of CGST Act read with rule 39 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules'). However, as per the present provisions of

	(hereinafter referred to as 'ISD') mechanism for distribution of ITC in respect of common input services procured by them from a third party but attributable to both HO and Bos or exclusively to one or more BOs?	the CGST Act and CGST Rules, it is not mandatory for the HO to distribute such input tax credit by ISD mechanism. HO can also issue tax invoices under section 31 of CGST Act to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs and the BOs can then avail ITC on the same subject to the provisions of section 16 and 17 of CGST Act. In case, the HO distributes or wishes to distribute ITC to BOs in respect of such common input services through the ISD mechanism as per the provisions of section 20 of CGST Act read with rule 39 of the CGST Rules, HO is required to get itself registered mandatorily as an ISD in accordance with Section 24(viii) of the CGST Act. Further, such distribution of the ITC in respect a common input services procured from a third party can be made by the HO to a BO through ISD mechanism only if the said input services are attributable to the said BO or have actually been provided to the said BO. Similarly, the HO can issue tax invoices under section 31 of CGST Act to the concerned BOs, in respect of any input services, procured by HO from a third party for on or behalf of a BO, only if the said services have actually been provided to the concerned BOs.
2.	In respect of internally generated services, there may be cases where HO is providing certain services to the BOs **for which full input tax credit is available to the concerned BOs.** However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs. Whether the HO is mandatorily required to issue invoice to BOs under section 31 of CGST Act for such internally generated services, and/ or whether the cost of all components including salary cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs **when full input tax credit is available to the concerned BOs.**	The value of supply of services made by a registered person to a distinct person needs to be determined as per rule 28 of CGST Rules, read with sub-section (4) of section 15 of CGST Act. As per clause (a) of rule 28, the value of supply of goods or services or both between distinct persons shall be the open market value of such supply. The **second proviso to** rule 28 of CGST Rules provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Accordingly, in respect of supply of services by HO to BOs, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, **if the recipient BO is eligible for full input tax credit.** Accordingly, in cases **where full input tax credit is available to a BO,** the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice. Further, in such **cases where full input tax credit is available to the recipient,** if HO has not issued a tax

		invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules.
3.	In respect of internally generated services provided by the HO to BOs, in cases where **full input tax credit is not available to the concerned BOs,** whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs.	In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases **where full input tax credit is not available to the concerned BO.**

4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

5. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board. Hindi version would follow.

[For further details please refer the circular]

CIRCULAR

CLARIFICATION ON ISSUE PERTAINING TO E-INVOICE.

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide circular 198/10/2023-GST dated 17.07.2023 circulated that representations have been received seeking clarification with respect to applicability of e-invoice under rule 48(4) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules") w.r.t supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/ Government agencies/ local authorities/ PSUs registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act").

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issue as under:

S.No.	Issue	Clarification
1.	Whether e-invoicing is applicable for supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/Government agencies/ local authorities/ PSUs which are registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act?	Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct tax at source as per provisions of section 51 of the CGST/SGST Act, are liable for compulsory registration in accordance with section 24(vi) of the CGST Act. Therefore, Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act, are to be treated as registered persons under the GST law as per provisions of clause (94) of section 2 of CGST Act. Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-

		invoicing, is required to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc under rule 48(4) of CGST Rules.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

[For further details please refer the circular]

CIRCULAR

CLARIFICATION ON REFUND RELATED ISSUES.

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide circular 197/09/2023-GST dated 17.07.2023 circulated that References have been received from the field formations seeking clarification on various issues relating to GST refunds. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law in this regard across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues detailed hereunder:

1. Refund of accumulated input tax credit under Section 54(3) **on the basis of that available as per** FORM GSTR 2B**: -**

1.1 In terms of Para 5 of Circular No. 135/05/2020-GST dated 31.03.2020, refund of accumulated input tax credit (ITC) is restricted to the input tax credit as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the **FORM GSTR-2**A of the applicant. Para 5 of the said circular is reproduced below:

"5. Guidelines for refunds of Input Tax Credit under Section 54(3)**:**

5.1 In terms of para 36 of circular No. 125/44/2019-GST dated 18.11.2019**, the refund of ITC availed in respect of invoices not reflected in** FORM GSTR-2A **was also admissible and copies of such invoices were required to be uploaded. However, in wake of insertion of** sub-rule (4) to rule 36 **of the** CGST Rules, 2017 **vide** notification No. 49/2019-GST dated 09.10.2019, **various references have been received from the field formations regarding admissibility of refund of the ITC availed on the invoices which are not reflecting in the** FORM GSTR-2A **of the applicant.**

5.2 The matter has been examined and it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 **and are reflected in the** FORM GSTR-2A **of the applicant. Accordingly,** para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 **stands modified to that extent."**

1.2 However, in view of the insertion of clause (aa) in sub-section (2) of section 16 of the CGST Act, 2017 w.e.f. 1st January, 2022 vide Notification No. 39/2021-Central Tax dated 21.12.2021, and the amendment in Rule 36(4) of the Central Goods and Services Tax Rules, 1997 (hereinafter referred to as "CGST Rules") w.e.f. 1st January, 2022 vide Notification No. 40/2021- Central Tax dated 29.12.2021, doubts are being raised as to whether the refund of the accumulated input tax credit under section 54(3) of CGST Act shall be admissible on the basis of the input tax credit as reflected in **FORM GSTR-2**A or on the basis of that available as per **FORM GSTR-2B** of the applicant.

1.3 The matter has been examined and it has been decided that since availment of input tax credit has been linked with **FORM GSTR-2B** w.e.f. 01.01.2022, availability of refund of the accumulated input tax credit under section 54(3) of CGST Act for a tax period shall be restricted to input tax credit as per those invoices, the details of which are reflected in **FORM GSTR-2B** of the applicant for the said tax period or for any of the previous tax periods and on which the input tax credit is available to the applicant. Accordingly, para 36 of Circular No. 125/44/2019-GST dated 18.11.2019, which was earlier modified vide Para 5 of Circular No. 135/05/2020-GST dated 31.03.2020, stands modified to this extent. Consequently, Circular No. 139/09/2020-GST dated 10.06.2020, which provides for restriction on refund of accumulated input tax credit on those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the **FORM GSTR-2**A of the applicant, also stands modified accordingly.

1.4 It is further clarified that as the said amendments in section 16(2) (aa) of CGST Act and Rule 36(4) of CGST Rules have been brought into effect from 01.01.2022, therefore, the said restriction on availability of refund of accumulated input tax credit for a tax period on the basis of the credit available as per **FORM GSTR-2B** for the said tax period or for any of the previous tax periods, shall be applicable for the refund claims for the tax period of January 2022 onwards. However, in cases where refund claims for a tax period from January 2022 onwards has already been disposed of by the proper officer before the issuance of this circular, in accordance with the extant guidelines in force, the same shall not be reopened because of the clarification being issued by this circular.

2. Requirement of the undertaking in FORM RFD 01 **inserted vide** Circular No. 125/44/2019-GST dated 18.11.2019**.**

2.1 Para 7 of Circular No. 125/44/2019-GST dated 18.11.2019 provides for an undertaking to be provided by the applicant electronically along with the refund claim in FORM RFD-01 in accordance with the Rule 89(1) of CGST Rules. Para 7 of Circular No. 125/44/2019-GST dated 18.11.2019 is reproduced below:

"7. Since the functionality of furnishing of FORM GSTR-2 **and** FORM GSTR-3 **remains unimplemented, it has been decided by the GST Council to sanction refund of provisionally accepted input tax credit. However, the applicants applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of** clause (c) of sub-section (2) of section 16 **read with** sub-section (2) of section 42 **of the** CGST Act **have not been complied with in respect of the amount refunded. This undertaking should be submitted electronically along with the refund claim."**

2.2 In accordance with the same, the following undertaking was inserted in FORM GST RFD-01**:**

"I hereby undertake to pay back to the Government the amount of refund sanctioned along with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 **read with** sub-section (2) of section 42 **of the CGST/SGST Act have not been complied with in respect of the amount refunded."**

2.3 However, Section 42 of CGST Act has been omitted w.e.f. 1st October, 2022 vide Notification No. 18/2022-CT dated 28.09.2022. Further, an amendment has also been made in Section 41 of the CGST Act, wherein the concept of provisionally accepted input tax credit has been done away with. Besides, **FORM GSTR-2** and **FORM GSTR-3** have also been omitted from CGST Rules. In view of this, reference to section 42, **FORM GSTR-2** and **FORM GSTR-3** is being deleted from the said para in the Circular as well as from the said undertaking. Para 7 of Circular No. 125/44/2019-GST dated 18.11.2019 & the undertaking in FORM GST RFD-01 may, therefore, be read as follows:

Para 7: "The applicants applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 **of the** CGST Act **have not been complied with in respect of the amount refunded. This undertaking should be submitted electronically along with the refund claim."**

Undertaking in FORM GST RFD 01**:- "I hereby undertake to pay back to the Government the amount of refund sanctioned along with interest in case it is found subsequently that the requirements of** clause (c) of sub-section (2) of section 16 **of the CGST/ SGST Act have not been complied with in respect of the amount refunded."**

2.4. Consequentially, **Annexure-A** to the Circular No. 125/44/2019-GST dated 18.11.2019 also stands amended to the following extent:

i. "Undertaking in relation to sections 16(2)(c) and section 42(2)" wherever mentioned in the column "Declaration/Statement/Undertaking/Certificates to be filled online" may be read as "Undertaking in relation to sections 16(2)(c)".

ii. "Copy of GSTR-2A of the relevant period" wherever required as supporting documents to be additionally uploaded stands removed/deleted.

iii. "Self-certified copies of invoices entered in Annexure-B whose details are not found in GSTR-2A of the relevant period" wherever required as supporting documents to be additionally uploaded stands removed/deleted.

3. Manner of calculation of Adjusted Total Turnover under sub-rule (4) of Rule 89 **of** CGST Rules **consequent to Explanation inserted in** sub-rule (4) of Rule 89 **vide** Notification No. 14/2022- CT, dated 05.07.2022**.**

3.1 Doubts have been raised as regarding calculation of "adjusted total turnover" under sub-rule (4) of rule 89 of CGST Rules, in view of insertion of Explanation in sub-

rule (4) of rule 89 of CGST Rules vide Notification No. 14/2022-Central Tax dated 05.07.0222. Clarification is being sought as to whether value of goods exported out of India has to be considered as per Explanation under sub-rule (4) of rule 89 of CGST Rules for the purpose of calculation of "adjusted total turnover" in the formula under the said sub-rule.

3.2 In this regard, it is mentioned that consequent to amendment in definition of the "Turnover of zero-rated supply of goods" vide Notification No. 16/2020-Central Tax dated 23.03.2020, Circular 147/03/2021-GST dated 12.03.2021 was issued which inter alia clarified that the same value of zero-rated/ export supply of goods, as calculated as per amended definition of "Turnover of zero-rated supply of goods", needs to be taken into consideration while calculating "turnover in a state or a union territory", and accordingly, in "adjusted total turnover" for the purpose of sub-rule (4) of Rule 89.

3.3 On similar lines, it is clarified that consequent to Explanation having been inserted in sub-rule (4) of rule 89 of CGST Rules vide Notification No. 14/2022- CT dated 05.07.2022, the value of goods exported out of India to be included while calculating "adjusted total turnover" will be same as being determined as per the Explanation inserted in the said sub-rule.

4. Clarification in respect of admissibility of refund where an exporter applies for refund subsequent to compliance of the provisions of sub-rule (1) of rule 96A**:**

4.1 References have been received citing the instances where exporters have voluntarily made payment of due integrated tax, along with applicable interest, in cases where goods could not be exported or payment for export of services could not be received within time frame as prescribed in clause (a) or (b), as the case may be, of sub-rule (1) of rule 96A of CGST Rules. Clarification is being sought as to whether subsequent to export of the said goods or as the case may be, realization of payment in case of export of services, the said exporters are entitled to claim not only refund of unutilized input tax credit on account of export but also refund of the integrated tax and interest so paid in compliance of the provisions of sub-rule (1) of rule 96A.of CGST Rules.

4.2 It is mentioned that in terms of sub-rule (1) of rule 96A of the CGST Rules, a registered person availing of the option to export without payment of integrated tax is required to furnish a bond or a Letter of Undertaking (LUT), prior to export, binding himself to pay the tax due along with applicable interest within a period of -

(a) fifteen days after the expiry of three months, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the goods are not exported out of India; or

(b) fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange or in Indian rupees, wherever permitted by the Reserve Bank of India

4.3 In this context, it has been clarified inter alia in para 45 of Circular No. 125/44/2019 - GST dated 18.11.2019 that:

"……. exports have been zero rated under the IGST Act and as long as goods have actually been exported even after a period of three months, payment of Integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services"

4.4 Further, in Para 44 of the aforesaid Circular, it has been emphasized that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made.

4.5 The above clarifications imply that as long as goods are actually exported or as the case may be, payment is realized in case of export of services, even if it is beyond the time frames as prescribed in sub-rule (1) of rule 96A, the benefit of zero-rated supplies cannot be denied to the concerned exporters. Accordingly, it is clarified that in such cases, on actual export of the goods or as the case may be, on realization of payment in case of export of services, the said exporters would be entitled to refund of unutilized input tax credit in terms of sub-section (3) of section 54 of the CGST Act, if otherwise admissible.

4.6 It is also clarified that in such cases subsequent to export of the goods or realization of payment in case of export of services, as the case may be, the said exporters would be entitled to claim refund of the integrated tax so paid earlier on account of goods not being exported, or as the case be, the payment not being realized for export of services, within the time frame prescribed in clause (a) or (b), as the case may be, of sub-rule (1) of rule 96A. It is further being clarified that no refund of the interest paid in compliance of sub-rule (1) of rule 96A shall be admissible.

4.7 It may further be noted that the refund application in the said scenario may be made under the category "Excess payment of tax". However, till the time the refund application cannot be filed under the category "Excess payment of tax" due to non-availability of the facility on the portal to file refund of IGST paid in compliance with the provisions of sub-rule (1) of rule 96A of CGST Rules as "Excess payment of tax", the applicant may file the refund application under the category "Any Other" on the portal.

5. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

6. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

[For further details please refer the circular]

CIRCULAR

CLARIFICATION ON TAXABILITY OF SHARES HELD IN A SUBSIDIARY COMPANY BY THE HOLDING COMPANY

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide circular 196/08/2023-GST dated 17.07.2023 circulated that Representations have been received from the trade and field formations seeking clarification on certain issues whether the holding of shares in a subsidiary company by the holding company will be treated as 'supply of service' under GST and will be taxed accordingly or whether such transaction is not a supply.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

S.No.	Issue	Clarification
Taxability of share capital held in subsidiary company by the parent company		
1.	Whether the activity of holding shares by a holding company of the subsidiary company will be treated as a supply of service or not and whether the same will attract GST or not.	Securities are considered neither good nor services in terms of definition of goods under clause (52) of section 2 of CGST Act and the definition of services under clause (102) of the said section. Further, securities include 'shares' as per definition of securities under clause (h) of section 2 of Securities Contracts (Regulation) Act, 1956. This implies that the securities held by the holding company in the subsidiary company are neither good nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services. For a transaction/activity to be treated as supply of services, there must be a supply as defined under section 7 of CGST Act. It cannot be said that a service is being provided by the holding company to the subsidiary company, solely on the basis that there is a SAC entry '997171' in the scheme of classification of services mentioning; "the services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest.", unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7 of CGST Act. Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

[For further details please refer the circular]

CIRCULAR

CLARIFICATION ON AVAILABILITY OF ITC IN RESPECT OF WARRANTY REPLACEMENT OF PARTS AND REPAIR SERVICES DURING WARRANTY PERIOD

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide circular 195/07/2023-GST dated 17.07.2023 circulated that Representations have been received from trade and industry that as a common trade practice, the original equipment manufacturers /suppliers offer warranty for the goods / services supplied by them. During the warranty period, replacement goods /services are supplied to customers free of charge and as such no separate consideration is charged and received at the time of replacement. It has been represented that suitable clarification may be issued in the matter as unnecessary litigation is being caused due to contrary interpretations by the investigation wings and field formations in respect of GST liability as well as liability to reverse ITC against such supplies of replacement of parts and repair services during the warranty period without any consideration from the customers.

2. The matter has been examined. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act), hereby clarifies as follows:

S.No.	Issue	Clarification
1.	There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services. Whether GST would be payable on such replacement of parts or supply of repair services, without any consideration from the customer, as part of warranty?	The value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and / or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods. As such, where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, no further GST is chargeable on such replacement of parts and/ or repair service during warranty period. However, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.
2.	Whether in such cases, the manufacturer is required to reverse the input tax credit in respect of such replacement of parts or supply of repair services as part of warranty, in respect of which no additional consideration is charged from the customer?	In such cases, the value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and/ or repair services to be incurred during the warranty period. Therefore, these supplies cannot be considered as exempt supply and accordingly, the manufacturer, who provides replacement of parts and/ or repair services to the customer during the warranty period, is not required to reverse the input tax credit in respect of the said replacement parts or on the repair services provided.
3.	Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?	There may be instances where a distributor of a company provides replacement of parts and/ or repair services to the customer as part of warranty on behalf of the manufacturer and no separate consideration is charged by such distributor in respect of the said replacement and/ or repair services from the customer.

		In such cases, as no consideration is being charged by the distributor from the customer, no GST would be payable by the distributor on the said activity of providing replacement of parts and/ or repair services to the customer. However, if any additional consideration is charged by the distributor from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.
4.	In the above scenario where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer and whether the distributor would be required to reverse the input tax credit in respect of such replacement of parts?	(a) There may be cases where the distributor replaces the part(s) to the customer under warranty either by using his stock or by purchasing from a third party and charges the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice, for the said supply made by him to the manufacturer. In such a case, GST would be payable by the distributor on the said supply by him to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of CGST Act. In such case, no reversal of input tax credit by the distributor is required in respect of the same. (b) There may be cases where the distributor raises a requisition to the manufacturer for the part(s) to be replaced by him under warranty and the manufacturer then provides the said part(s) to the distributor for the purpose of such replacement to the customer as part of warranty. In such a case, where the manufacturer is providing such part(s) to the distributor for replacement to the customer during the warranty period, without separately charging any consideration at the time of such replacement, no GST is payable on such replacement of parts by the manufacturer. Further, no reversal of ITC is required to be made by the manufacturer in respect of the parts so replaced by the distributor under warranty. (c) There may be cases where the distributor replaces the part(s) to the customer under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced subject to provisions of sub-section (2) of section 34 of the CGST Act. Accordingly, the tax liability may be adjusted by the manufacturer, subject to the condition that the said distributor has reversed the ITC availed against the parts so replaced.
5.	Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any	In such scenario, there is a supply of service by the distributor and the manufacturer is the recipient of such supply of

	consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?	repair services in accordance with the provisions of sub-clause (a) of clause (93) to section 2 of the CGST Act, 2017. Hence, GST would be payable on such provision of service by the distributor to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of CGST Act.
6.	Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?	(a) If a customer enters in to an agreement of extended warranty with the manufacturer at the time of original supply, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly. (b) However, in case where a consumer enters into an agreement of extended warranty at any time after the original supply, then the same is a separate contract and GST would be payable by the service provider, whether manufacturer or the distributor or any third party, depending on the nature of the contract (i.e. whether the extended warranty is only for goods or for services or for composite supply involving goods and services)

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

[For further details please refer the circular]

CIRCULAR

CLARIFICATION ON TCS LIABILITY UNDER SEC 52 OF THE CGST ACT, 2017 IN CASE OF MULTIPLE E-COMMERCE OPERATORS IN ONE TRANSACTION

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide circular 194/06/2023-GST dated 17.07.2023 circulated that Reference has been received seeking clarification regarding TCS liability under section 52 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), in case of multiple E-commerce Operators (ECOs) in one transaction, in the context of Open Network for Digital Commerce (ONDC).

2.1 In the current platform-centric model of e-commerce, the buyer interface and seller interface are operated by the same ECO. This ECO collects the consideration from the buyer, deducts the TCS under Sec 52 of the CGST Act, credits the deducted TCS amount to the GST cash ledger of the seller and passes on the balance of the consideration to the seller after deducting their service charges.

2.2 In the case of the ONDC Network or similar other arrangements, there can be multiple ECOs in a single transaction - one providing an interface to the buyer and the other providing an interface to the seller. In this setup, buyer-side ECO could collect consideration, deduct their commission and pass on the consideration to the seller-side ECO. In this context, clarity has been sought as to which ECO should deduct TCS and make other compliances under section 52 of CGST Act in such situations, as in such models having multiple ECOs in a single transaction, both the Buyer-side ECO and the Seller-side ECO qualify as ECOs as per Section 2(45) of the CGST Act.

3. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues as under:

Issue 1: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier in the said supply, who is liable for compliances under section 52 including collection of TCS?

Buyer	Buyer-side ECO	Supplier-side ECO	Supplier

Clarification: In such a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier of the said goods or services, the compliances under section 52 of CGST Act, including collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.

e.g.: Buyer-side ECO collects payment from the buyer, deducts its fees/commissions and remits the balance to Seller-side ECO. Here, the Seller-side ECO will release the payment to the supplier after deduction of his fees/commissions and therefore will also be required to collect TCS, as applicable and pay the same to the Government in accordance with section 52 of CGST Act and also make other compliances under section 52 of CGST Act.

In this case, the Buyer-side ECO will neither be required to collect TCS nor will be required to make other compliances in accordance with section 52 of CGST Act with respect to this particular supply.

Issue 2: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the Supplier-side ECO is himself the supplier of the said supply, who is liable for compliances under section 52 **including collection of TCS?**

Buyer	Buyer-side ECO	Supplier (also an ECO)

Clarification: In such a situation, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it.

e.g. Buyer-side ECO collects payment from the buyer, deducts its fees and remits the balance to the supplier (who is itself an ECO as per the definition in Sec 2(45) of the CGST Act). In this scenario, the Buyer-side ECO will also be required to collect TCS, as applicable, pay the same to the Government in accordance with section 52 of CGST Act and also make other compliances under section 52 of CGST Act.

4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

5. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

[For further details please refer the circular]

CIRCULAR

CLARIFICATION TO DEAL WITH DIFFERENCE IN INPUT TAX CREDIT (ITC) AVAILED IN FORM GSTR-3B AS COMPARED TO THAT DETAILED IN FORM GSTR-2A FOR THE PERIOD 01.04.2019 TO 31.12.2021

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide circular 193/05/2023-GST dated 17.07.2023 circulated that Attention is invited to Circular No. 183/15/2022-GST dated 27th December, 2022, vide which clarification was issued for dealing with the difference in Input Tax Credit (ITC) availed in **FORM GSTR-3B** as compared to that detailed in **FORM GSTR-2A** for FY 2017-18 and 2018-19, subject to certain terms and conditions.

2. Even though the availability of ITC was subjected to restrictions and conditions specified in Section 16 of Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") from 1st July, 2017 itself, restrictions regarding availment of ITC by the registered persons up to certain specified limit beyond the ITC available as per **FORM GSTR-2A** were provided under rule 36(4) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules") only with effect from 9th October 2019. W.e.f. 09.10.2019, the said rule allowed availment of Input tax credit by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in **FORM GSTR-1** or using the invoice furnishing facility (IFF), to the extent not exceeding 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 of CGST Act in **FORM GSTR-1** or using the IFF. The said limit was brought down to 10% w.e.f. 01.01.2020 and further reduced to 5% w.e.f. 01.01.2021. The said rule was intended to allow availment of due credit in cases where the suppliers may have delayed in furnishing the details of outward supplies. Further, w.e.f. 01.01.2022, consequent to insertion of clause (aa) to sub-section (2) of section 16 of the CGST Act, ITC can be availed only up to the extent communicated in FORM GSTR-2B**.**

3.1 As discussed above, rule 36(4) of CGST Rules allowed additional credit to the tune of 20%, 10% and 5%, as the case may be, during the period from 09.10.2019 to 31.12.2019, 01.01.2020 to 31.12.2020 and 01.01.2021 to 31.12.2021 respectively, subject to certain terms and conditions, in respect of invoices/supplies that were not reported by the concerned suppliers in their **FORM GSTR-1** or IFF, leading to discrepancies between the amount of ITC availed by the registered persons in their returns

in **FORM GSTR-3B** and the amount as available in their **FORM GSTR-2A**. It may, however, be noted that such availment of input tax credit was subject to the provisions of clause (c) of sub-section (2) of section 16 of the CGST Act which provides that ITC cannot be availed unless tax on the said supply has been paid by the supplier. In this context, it is mentioned that rule 36(4) of CGST Rules was a facilitative measure and availment of ITC in accordance with rule 36(4) was subject to fulfilment of conditions of section 16 of CGST Act including those of clause (c) of sub-section (2) thereof regarding payment of tax by the supplier on the said supply.

3.2. Though the matter of dealing with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in **FORM GSTR-2A** has been clarified for FY 2017-18 and 2018-19 vide Circular No. 183/15/2022-GST dated 27th December, 2022, various representations have been received seeking clarification regarding the manner of dealing with such discrepancies between the amount of ITC availed by the registered persons in their **FORM GSTR-3B** and the amount as available in their **FORM GSTR-2A** during the period from 01.04.2019 to 31.12.2021.

4. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, hereby clarifies as follows:

(i) Since rule 36(4) came into effect from 09.10.2019 only, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable, in toto, for the period from 01.04.2019 to 08.10.2019.

(ii) In respect of period from 09.10.2019 to 31.12.2019, rule 36(4) of CGST Rules permitted availment of Input tax credit by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in **FORM GSTR-1** or using IFF to the extent not exceeding 20 per cent. of the eligible credit available in respect of invoices or debit notes, the details of which have been furnished by the suppliers under sub-section (1) of section 37 in **FORM GSTR-1** or using IFF. Accordingly, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable for verification of the condition of clause (c) of sub-section (2) of Section 16 of CGST Act for the said period, subject to the condition that availment of Input tax credit by the registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in **FORM GSTR-1** or using IFF shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 in **FORM GSTR-1** or using IFF. This is clarified through an illustration below:

Illustration:

Consider a case where the total amount of ITC available as per **FORM GSTR-2A** of the registered person was Rs. 3,00,000, whereas, the amount of ITC availed in **FORM GSTR 3B** by the said registered person during the corresponding tax period was Rs. 5,00,000. However, as per rule 36(4) of CGST Rules as applicable during the said period, the said registered person was not allowed to avail ITC in excess of an amount of Rs 3,00,000*1.2 = Rs. 3,60,000.

In the above case, the ITC of Rs 1,40,000 which has been availed in excess of Rs. 3,60,000 shall not be admissible as per rule 36(4) of CGST Rules as applicable during the said period even if the requisite certificate as prescribed in Circular No. 183/15/2022-GST dated 27.12.2022 is submitted by the registered person. Therefore, ITC availed in **FORM GSTR-3B** in excess of that available in **FORM GSTR-2A** up to an amount of Rs 60,000 only (i.e. 3,60,000-3,00,000) can be allowed subject to production of the requisite certificates as per Circular No. 183/15/2022-GST dated 27.12.2022.

(iii) Similarly, for the period from 01.01.2020 to 31.12.2020, when rule 36(4) of CGST Rules allowed additional credit to the tune of 10% in excess of the that reported by the suppliers in their **FORM GSTR-1** or IFF, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable, for verification of the condition of clause (c) of sub-section (2) of Section 16 of CGST Act for the said period, subject to the condition that availment of Input tax credit by the registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in **FORM GSTR-1** or using the IFF shall not exceed 10 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 in **FORM GSTR-1** or using the IFF.

(iv) Further, for the period from 01.01.2021 to 31.12.2021, when rule 36(4) of CGST Rules allowed additional credit to the tune of 5% in excess of that reported by the suppliers in their **FORM GSTR-1** or IFF, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable, for verification of the condition of clause (c) of sub-section (2) of Section 16 of CGST Act for

the said period, subject to the condition that availment of Input tax credit by the registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in **FORM GSTR-1** or using the IFF shall not exceed 5 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 in **FORM GSTR-1** or using the IFF.

5. It is further clarified that consequent to insertion of clause (aa) to sub-section (2) of section 16 of the CGST Act and amendment of rule 36(4) of CGST Rules w.e.f. 01.01.2022, no ITC shall be allowed for the period 01.01.2022 onwards in respect of a supply unless the same is reported by his suppliers in their **FORM GSTR-1** or using IFF and is communicated to the said registered person in **FORM GSTR-2B.**

6. Further, it may be noted that proviso to rule 36(4) of CGST Rules was inserted vide Notification No. 30/2020-CT dated 03.04.2020 to provide that the condition of rule 36(4) shall be applicable cumulatively for the period February to August, 2020 and ITC shall be adjusted on cumulative basis for the said months in the return for the tax period of September 2020. Similarly, second proviso to rule 36(4) of CGST Rules was substituted vide Notification No. 27/2021-CT dated 01.06.2021 to provide that the condition of rule 36(4) shall be applicable cumulatively for the period April to June, 2021 and ITC shall be adjusted on cumulative basis for the said months in the return for the tax period of June 2021. The same may be taken into consideration while determining the amount of ITC eligibility for the said tax periods.

7. It may also be noted that these guidelines are clarificatory in nature and may be applied as per the actual facts and circumstances of each case and shall not be used in the interpretation of the provisions of law.

8. These instructions will apply only to the ongoing proceedings in scrutiny/ audit/ investigation, etc. for the period 01.04.2019 to 31.12.2021 and not to the completed proceedings. However, these instructions will apply in those cases during the period 01.04.2019 to 31.12.2021 where any adjudication or appeal proceedings are still pending.

9. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

[For further details please refer the circular]

CIRCULAR

CLARIFICATION ON CHARGING OF INTEREST UNDER SECTION 50(3) OF THE CGST ACT, 2017, IN CASES OF WRONG AVAILMENT OF IGST CREDIT AND REVERSAL THEREOF

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide circular 192/04/2023-GST dated 17.07.2023 circulated that References have been received from trade requesting for clarification regarding charging of interest under sub-section (3) of section 50 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") in the cases where IGST credit has been wrongly availed by a registered person. Clarification is being sought as to whether such wrongly availed IGST credit would be considered to have been utilized for the purpose of charging of interest under sub-section (3) of section 50 of CGST Act, read with rule 88B of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules"), in cases where though the available balance of IGST credit in the electronic credit ledger of the said registered person falls below the amount of such wrongly availed IGST credit, the total balance of input tax credit in the electronic credit ledger of the registered person under the heads of IGST, CGST and SGST taken together remains more than such wrongly availed IGST credit, at all times, till the time of reversal of the said wrongly availed IGST credit.

2. Issue has been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues as under:

S.No.	Issue	Clarification
1.	In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B of CGST Rules, whether the balance of input tax credit available in electronic credit ledger under the head of IGST only needs to be considered or total input tax credit available in electronic credit ledger, under the heads of IGST,	Since the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B of CGST

	CGST and SGST taken together, has to be considered.	Rules and for determining as to whether the balance in the electronic credit ledger has fallen below the amount of wrongly availed input tax credit of IGST, and to what extent the balance in electronic credit ledger has fallen below the said amount of wrongly availed credit. Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under sub-section (3) of section 50 of CGST Act if, during the time period starting from such availment and up to such reversal, the balance of input tax credit (ITC) in the electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in electronic credit ledger individually falls below the amount of such wrongly availed IGST credit. However, when the balance of ITC, under the heads of IGST, CGST and SGST of electronic credit ledger taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in electronic credit ledger under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit, and will attract interest as per sub-section (3) of section 50 of CGST Act, read with section 20 of Integrated Goods and Services Tax Act, 2017 and sub-rule (3) of rule 88B of CGST Rules.
2.	Whether the credit of compensation cess available in electronic credit ledger shall be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under sub-rule (3) of rule 88B of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.	As per proviso to section 11 of Goods and Services Tax (Compensation to States) Act, 2017, input tax credit in respect of compensation cess on supply of goods and services leviable under section 8 of the said Act can be utilised only towards payment of compensation cess leviable on supply of goods and services. Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads. Accordingly, credit of compensation cess available in electronic credit ledger cannot be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under sub-rule (3) of rule 88B of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

[For further details please refer the circular]

FEMA

PRESS RELEASE

INDIA'S FOREX RESERVES BREACH $600 BILLION-MARK, HOVER AROUND 15-MONTH HIGH

OUR COMMENTS: India's forex reserves see the biggest weekly jump in four months, as they went up by $12.74 billion to $609.02 billion, as per the Reserve Bank of India's update on Friday. Previously, forex reserves had witnessed an uptick of $1.23 billion for the week ending on July 7.

Foreign currency assets (FCAs) surged by $11.19 billion to $540.17 billion, according to the Weekly Statistical Supplement released by the RBI. Expressed in dollar terms, the FCAs include the effect of appreciation or depreciation of non-US units like the euro, pound and yen held in the foreign exchange reserves.

Gold reserves rose $1.14 billion to $45.20 billion, while SDRs increased by $250 million to $18.500 billion.

Reserve Position in the IMF moved up by $158 million to $5.18 billion.

Typically, the RBI, from time to time, intervenes in the market through liquidity management, including through the selling of dollars, with a view to preventing a steep depreciation in the rupee. The RBI closely monitors the foreign exchange markets and intervenes only to maintain orderly market conditions by containing excessive volatility in the exchange rate, without reference to any pre-determined target level or band.

The RBI bought $7.37 billion in the spot foreign exchange market in May, showed data released on Monday as part of the central bank's monthly bulletin. The RBI did not sell any dollars in the reported month, the data showed. In April, the central bank had bought a net of $7.70 billion in the spot market. The Indian rupee depreciated by over 1 per cent against the dollar in May.

CUSTOMS

NOTIFICATION

RATE OF EXCHANGE OF ONE UNIT OF FOREIGN CURRENCY EQUIVALENT TO INDIAN RUPEES - SUPERSESSION NOTIFICATION NO. 50/2023-CUSTOMS(N.T.), DATED 6TH JULY, 2023

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification no 54/2023-Customs(N.T) dated 20.07.2023 notified that In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No. 50/2023-Customs(N.T.), dated 6th July, 2023 except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 21st July, 2023, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE-I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	(2)	(3)	
		(a)	**(b)**
		(For Imported Goods)	**(For Export Goods)**
1.	Australian Dollar	57.35	54.90
2.	Bahraini Dinar	224.55	211.15
3.	Canadian Dollar	63.50	61.40
4.	Chinese Yuan	11.60	11.30
5.	Danish Kroner	12.55	12.15
6.	EURO	93.75	90.55
7.	Hong Kong Dollar	10.70	10.35
8.	Kuwaiti Dinar	276.40	259.40
9.	New Zealand Dollar	53.10	50.70
10.	Norwegian Kroner	8.35	8.10
11.	Pound Sterling	108.10	104.55
12.	Qatari Riyal	23.25	21.85
13.	Saudi Arabian Riyal	22.60	21.20
14.	Singapore Dollar	63.10	61.10
15.	South African Rand	4.75	4.45
16.	Swedish Kroner	8.15	7.90
17.	Swiss Franc	97.70	94.00
18.	Turkish Lira	3.15	2.95
19.	UAE Dirham	23.05	21.65
20.	US Dollar	82.95	81.20

SCHEDULE-II

Sl. No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
	(2)	(3)	
		(a)	**(b)**
		(For Imported Goods)	**(For Export Goods)**
1.	Japanese Yen	59.90	58.00
2.	Korean Won	6.70	6.30

[For further details please refer the notification]

NOTIFICATION

FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, ARECA NUT, GOLD AND SILVER

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide notification no 53/2023-Customs(N.T) dated 14.07.2023 notified In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

TABLE-1

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US $Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	902
2	1511 90 10	RBD Palm Oil	914
3	1511 90 90	Others – Palm Oil	908
4	1511 10 00	Crude Palmolein	918
5	1511 90 20	RBD Palmolein	921
6	1511 90 90	Others – Palmolein	920
7	1507 10 00	Crude Soya bean Oil	1008
8	7404 00 22	Brass Scrap (all grades)	4761

TABLE-2

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US $)
(1)	(2)	(3)	(4)
1.	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	630 per 10 grams
2.	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	792 per kilogram
3.	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	792 per kilogram
4.	71	(i) Gold bars, other than tola bars, bearing manufacturers or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	630 per 10 grams

TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value

CUSTOMS

			(US $ Per Metric Ton)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	10379 (i.e., no change)"

2. This notification shall come into force with effect from the 15th day of July, 2023.

[For further details please refer the notification]

INSTRUCTION

SUSPENSION OF LICENCE OF CUSTOMS BROKER

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide instruction no 24/2023-Customs dated 18.07.2023 instructed that references have been received in the Board that often the suspension of Customs Broker licence is resorted even in the cases which do not merit immediate suspension of licence. It is represented that this may be disruptive, especially in the case of small enterprises of Custom Brokers.

2. The matter has been examined. The Regulation 16 of CBLR, 2018 provides that notwithstanding anything contained in Regulation 14, the Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the licence of a customs broker, where the enquiry against such customs broker is pending or contemplated.

3. Since the power is specified to be exercised in specified circumstances, that is, the appropriate cases where immediate action is necessary, it indicates that suspension is not visualized for application in a manner routine or mechanical or in every case. This aspect is to be kept in view by the Commissioner of Customs in the course of considering a proposal to suspend the licence of a customs broker. Before doing so, the Commissioner should also take the care also of recording his/her reasons as to why it is considered an appropriate case where immediate action of suspension is necessary.

Hindi version follows.

[For further details please refer the instruction]

INSTRUCTION

E-WASTE (MANAGEMENT) RULES, 2022-REGARDING RELEASE OF IMPORTED CONSIGNMENTS OF PRODUCERS OF 106 EEES ITEMS

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide instruction no 23/2023-Customs dated 14.07.2023 instructed that reference is invited to the Board Instruction No. 16/2023 dated 17.05.2023 with respect to release of the import consignments of notified EEE items (as given in schedule to E-Waste (Management) Rules, 2022), on submission of undertaking in the prescribed format, as an interim arrangement till 30.06.2023, and letter from Central Pollution Control Board (CPCB) vide File No. CP-22/40/2023-WM-lll-HO-CPCB-HO dated 30.06.2023 (copy enclosed).

2. Vide above-said letter dated 30.06.2023, CPCB has informed that interim arrangement of release of imported consignments of producers of all the notified EEE items (106 EEEs items) may be extended to only those producers who have submitted their application for registration on the EPR Portal of CPCB (URS: https://eprewastecpcb.in). The imported consignment may be released if the producer submits an acknowledgement from the CPCB's EPR Portal that they have applied at the EPR Portal. This interim arrangement shall continue till 31.08.2023

3. It is requested that concerned officers and Trade under your jurisdiction may be sensitized on the above communication and take appropriate action.

4. The difficulties, if any, in the implementation of this Instruction may be brought to the notice of the Board.

5. Hindi version follows.

[For further details please refer the instruction]

DGFT

NOTIFICATION

AMENDMENT IN EXPORT POLICY OF NON-BASMATI RICE UNDER HS CODE 1006 30 90

OUR COMMENTS: The Ministry of Commerce & Industry vide notification no 20/2023 dated 20.07.2023 notified in exercise of powers conferred by Section 3 read with section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), as amended, read with Para 1.02 and 2.01 of the Foreign Trade Policy, 2023, hereby amends the Export Policy of Non-basmati rice against ITC (HS) code 1006 30 90 of Chapter 10 of Schedule 2 of the ITC (HS) Export Policy, as under:

ITC HS Codes	Description	Export Policy	Revised Export Policy
1006 30 90	Non-basmati white rice (Semi-milled or wholly milled rice, whether or not polished or glazed: Other	Free	Prohibited

2. The Notification will come into immediate effect. The provisions as under Para 1.05 of the Foreign Trade Policy, 2023 regarding transitional arrangement shall not be applicable under this Notification for export of Non-basmati rice. Consignments of Non-basmati rice will be allowed to be exported under following conditions:

i. where loading of non-basmati rice on the ship has commenced before this Notification;

ii. where the shipping bill is filed and vessels have already berthed or arrived and anchored in Indian ports and their rotation number has been allocated before this Notification; The approval of loading in such vessels will be issued only after confirmation by the concerned Port Authorities regarding anchoring/berthing of the ship for loading of non-basmati rice prior to the Notification;

iii. where non-basmati rice consignment has been handed over to the Customs before this Notification and is registered in their system / where non-basmati rice consignment has entered the Customs Station for exportation before this Notification and is registered in the electronic systems of the concerned Custodian of the Customs Station with verifiable evidence of date and time stamping of these commodities having entered the Customs Station prior to 20.07.2023. The period of export shall be upto 31.08.2023.

iv. Export will be allowed on the basis of permission granted by the Government of India to other countries to meet their food security needs and based on the request of their government.

3. Export of Organic Non-basmati rice will be governed in accordance with Notification No. 03/2015-2020 dated 19th April, 2017 read with Notification No. 45/2015-2020 dated 29th November, 2022.

4. Effect of this Notification:

Export Policy of Non-basmati white rice (Semi-milled or wholly milled rice, whether or not polished or glazed: Other) under HS code 1006 30 90 is amended from 'Free' to 'Prohibited'.

[For further details please refer the Notification]

TRADE NOTICE

PROCEDURE FOR ALLOCATION OF QUOTA FOR EXPORT OF BROKEN RICE ON HUMANITARIAN AND FOOD SECURITY GROUNDS, BASED ON REQUESTS RECEIVED FROM GOVERNMENTS OF OTHER COUNTRIES

OUR COMMENTS: The Ministry of Commerce & Industry vide trade notice no 16/2023 dated 20.07.2023 notified that In compliance with the Order dated 17.07.2023 of Hon'ble High Court of Delhi at New Delhi in W.P.(C) 8625/2023 & CM APPLs. 32737/2023, Trade Notice No. 13 dated 03.07.2023 read with Trade Notice No. 12/2023 dated 30.06.2023 read with Trade Notice No. 08/2023 dated 20th June 2023 is partially amended to extend the last date for submission of application, for obtaining licence for export of broken rice to Senegal, Gambia and Indonesia, upto 27th July, 2023.

2. This is issued with the approval of the competent authority.

[For further details please refer the trade notice]

DGFT

TRADE NOTICE

INTRODUCTION OF A SEARCHABLE DATABASE FOR AD-HOC NORMS FIXED UNDER PARA 4.07 OF HBP

OUR COMMENTS: The Ministry of Commerce & Industry vide trade notice no 15/2023 dated 17.07.2023 notified that reference the subject as mentioned attention is drawn to Para 4.12(vi) of the Handbook of Procedure (HBP) 2023, wherein it is stated that: Norms ratified by any Norms Committee (NC) in the O/o DGFT on or after 01.04.2023 in respect of any Advance Authorisation obtained under paragraph 4.07 shall be valid for a period of 3 years from the date of ratification. However, the Norms ratified by any Norms Committee (NC) on or after 01.04.2015 in respect of any Advance Authorisation obtained under paragraph 4.07 of HBP, 2015-2020 shall also be valid further up to 31.03.2026.

2. To facilitate the above, DGFT has implemented a user-friendly and searchable database of Ad-hoc Norms fixed under Para 4.07 of HBP. These norms can be applied in accordance with the existing FTP/HBP provisions without the need for Norms Committee approval. The database is hosted on the DGFT Website (https://dgft.gov.in) and allows for searches based on the following criteria: –

i. Export Item Description/Technical Characteristics

ii. ITC(HS) code of the Export Item(s)

iii. Import Item Description/Technical Characteristics

iv. ITC(HS) code of the Import Item(s)

3. To access the database, applicant may visit the DGFT Website and navigate to Services -> Advance Authorisation/DFIA -> Ad-hoc norms. If an ad-hoc norm is found to be suitable in terms of item description, specified wastages, and is valid as per the HBP provisions, applicants have the option to apply for an Advance Authorisation under the "No-Norm Repeat" basis. In such cases, ratification by the Norm(s) Committee will not be required, subject to other provisions of FTP/HBP as applicable.

4. This trade facilitation measure has been introduced to simplify the advance authorisation and Norms Fixation process, aiming to enhance efficiency and reduce complexities for all stakeholders involved. For any further assistance you may utilize any of the following channels –

i. Raise a ticket through the DGFT Helpdesk service under Services -> 'DGFT Helpdesk Service'.

ii. Contact at the Toll-free Helpdesk number.

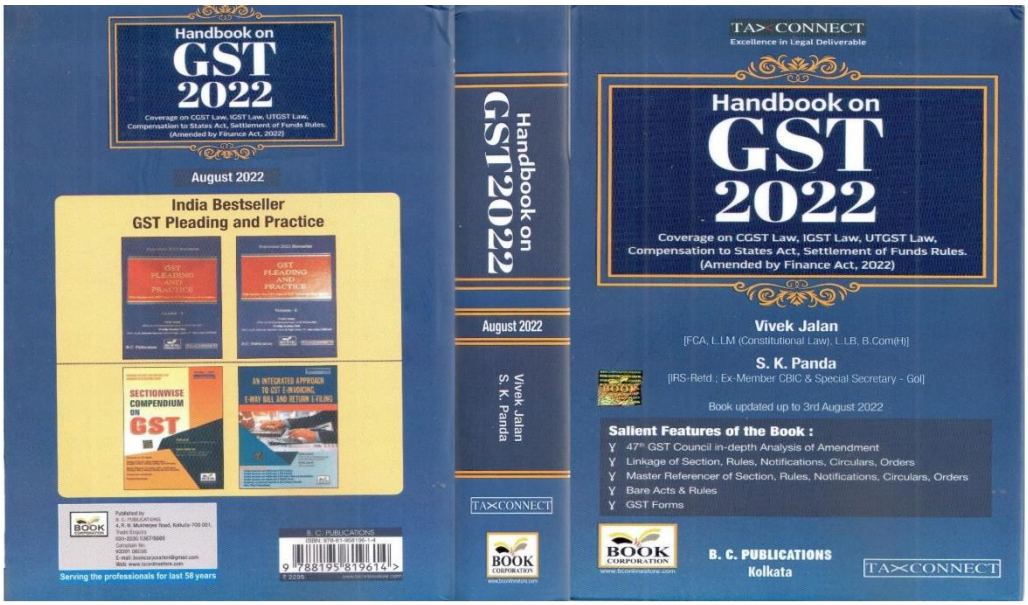
iii. Send an email to the Helpdesk at dgftedi@gov.in

This issues with the approval of the Competent Authority.

[For further details please refer the trade notice]

:IN STANDS

HANDBOOK ON GST 2022



CONTENTS

1. **47th GST Council in-depth Analysis of Amendment**
2. **Linkage of Section, Rules, Notifications, Circulars, Orders**
3. **Master Reference of Section, Rules, Notifications, Circulars, Orders**
4. **Bare Acts & Rules**
5. **GST Forms**

Author:

Vivek Jalan
[FCA, LL.M (Constitutional Law), LL.B, B.Com(H)]

S.K. Panda
[IRS-Retd.; Ex-Member CBIC & Special Secretary – GoI]

Published by:

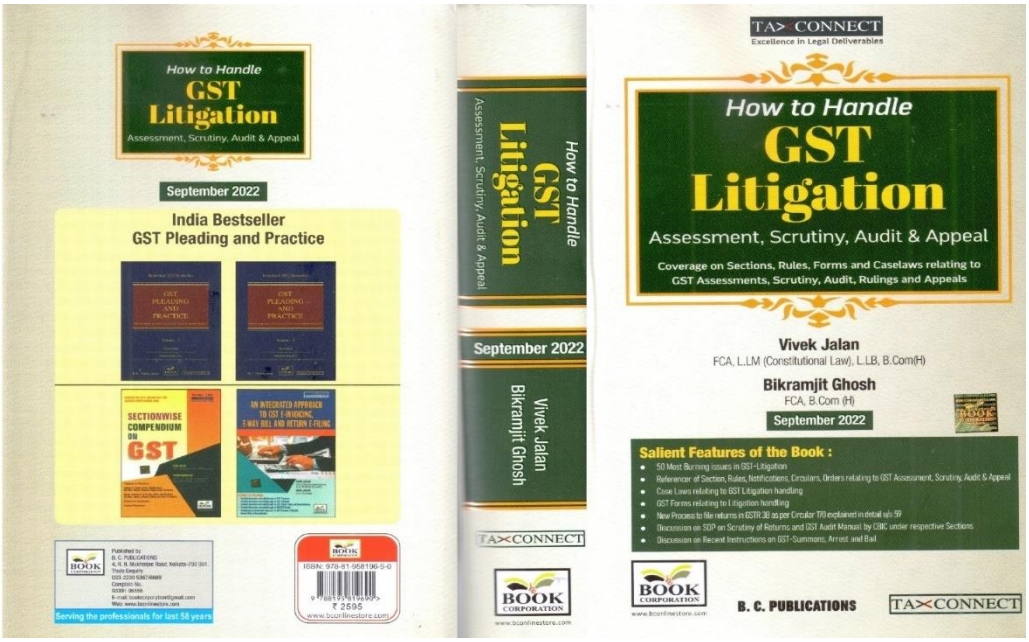
BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999
Cell: 9830010297, 9331018333
Order by email:bookcorporation@gmail.com
Website :www.bookcorporation.com

In Association With:

TAX CONNECT ACADEMY
6, Netaji Subhas Road,
Kolkata 700001
Cell: 7003384915
Order by email: info@taxconnect.co.in
Website : www.taxconnect.co.in

:IN STANDS

How to Handle GST LITIGATION: Assessment, Scrutiny, Audit & Appeal



CONTENTS

Authors:

Vivek Jalan
[FCA, LL.M (Constitutional Law), LL. B, B. Com(H)]

Bikramjit Ghosh
[FCA, B. Com(H)]

Published by:

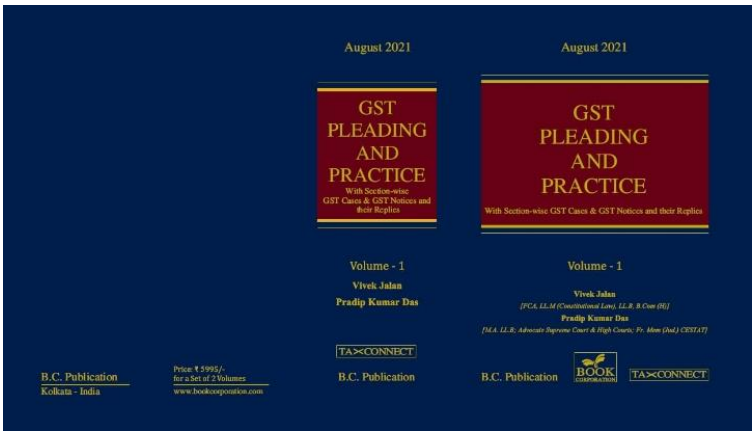
BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999
Cell: 9830010297, 9331018333
Order by email:bookcorporation@gmail.com
Website:www.bookcorporation.com

In Association With:

TAX CONNECT ACADEMY
6, Netaji Subhas Road,
Kolkata 700001
Cell: 7003384915
Order by email: info@taxconnect.co.in
Website : www.taxconnect.co.in

:IN STANDS

GST PLEADING AND PRACTICE: With Section-wise GST Cases & GST Notices and their Replies



ABOUT THE BOOK: **This publication includes:**

1. **GST Notices and their Replies**
2. **Orders and Appeals under GST**
3. **Text of provisions under IGST Act 2017 & CGST Act 2017**
4. **CGST & IGST Section-wise Synopsis of Case Laws and Notification/Circulars Gist**
5. **CGST & IGST Section-wise Synopsis of "Question of Law" answered under GST**
6. **Completely Updated Synopsis of Case Laws under GST by Supreme Court, High Court, AAARs & AARs**

Authors:

Vivek Jalan
[FCA, LL.M (Constitutional Law), LL. B, B. Com(H)]

Pradip Kumar Das
[M.A. LL. B; Advocate Supreme Court & High Courts; Fr. Mem (Jud.) CESTAT]

Published by:

BOOK CORPORATION
4, R. N. Mukherjee Road
Kolkata 700001
Phones: (033) 64547999
Cell: 9830010297, 9331018333
Order by email:bookcorporation@gmail.com
Website:www.bookcorporation.com

In Association With:

TAX CONNECT ACADEMY
6, Netaji Subhas Road,
Kolkata 700001
Cell: 7003384915
Order by email: info@taxconnect.co.in
Website : www.taxconnect.co.in

LET'S DISCUSS FURTHER!

OUR OFFICES:

MUMBAI

Unit No. 312, Omega Business Park, Near Kaamgar Hospital, Road No. 33, Wagle Industrial Estate, Thane West,
Maharashtra- 400604

Contact Person: Priyanka Vishwakarma

Email:priyanka.vishwakarma@taxconnect.co.in

BENGALURU

#46/4, GB Palya, Kudlu Gate, Hosur Road,
Bengaluru,
Karnataka – 560068.

Contact Person: Anil Pal

Email:anil.pal@taxconnectdelhi.co.in

DELHI (NCR)

B-139, 2nd Floor, Transport Nagar,
Noida-201301 (U.P)

Contact Person: Poonam Khemka

Email:poonam.khemka@taxconnect.co.in

KOLKATA

6, Netaji Subhas Road, 3rd Floor, Royal Exchange Building,
Kolkata - 700001

Contact Person: Tithly Roy

Email:tithly.roy@taxconnect.co.in

KOLKATA

R No 119; 1st Floor; Diamond Arcade; 1/72, Cal Jessore Road,
Kolkata – 700055

Contact Person: Uttam Kumar Singh

Email:info@taxconnect.co.in

DUBAI

Azizi Feirouz, 803, 8th Floor, AL Furjan, Opposite Discovery Pavillion,
Dubai, UAE

Contact Person: Rohit Sharma

Email:rohit.sharma@taxconnect.co.in

Disclaimer:

This e-bulletin is for private circulation only. Views expressed herein are of the editorial team and are based on the information, explanation and documents available on Government portal platforms. Tax Connect or any of its employees do not accept any liability whatsoever direct or indirect that may arise from the use of the information contained herein. No matter contained herein may be reproduced without prior consent of Tax Connect. While this e-article has been prepared on the basis of published/other publicly available information considered reliable, we do not accept any liability for the accuracy of its contents.