

THE POWER OF BEING UNDERSTOOD



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Newsflash

GST Quarterly Digest
[April 2024 to June 2024]

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QUARTER AT A GLANCE

We are pleased to present the **GST Quarterly Digest**, summarizing the significant amendments, clarifications, case laws, notifications and circulars released during **April 2024 to June 2024**. The report incorporates key highlights under the Indirect Tax, providing a concise overview of the important updates during this period.



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KEY HIGHLIGHTS

Conduct of 53rd GST Council Meeting

The GST Council, headed by Union Finance Minister conducted its 53rd meeting on 22 June 2024 in New Delhi.

The 53rd Council meeting has concluded with a series of recommendations for issuance of clarifications and changes to laws, regulations, and sector-specific relief measures, duly considering the difficulties faced by the trade and industry.

The key recommendations made by the GST Council inter-alia include:

- **Conditional waiver of interest and/or penalty in relation to demands imposed under Section 73 for the financial years 2017-18 to 2019-20 by insertion of Section 128A to the CGST Act.**
- **Reduction in amount of pre-deposit required to be made while filing appeals under GST by amendment to Section 107 and Section 112 of the CGST Act**
- **Lowering of the applicable TCS rate for the Electronic Commerce Operators (ECOs) in relation to supplies made through their e-commerce platform**
- **Prescribing timelines for filing appeals before the GST Appellate Tribunal for orders passed before the date of notification**
- **Clarification on valuation of corporate guarantee provided between related persons after insertion of Rule 28(2) of CGST Rules, 2017**
- **Introduction of amendment return in Form GSTR-1A**
- **Changes in GST Rates for certain goods and services**
- **Proposition to issue clarificatory circulars on several matters**

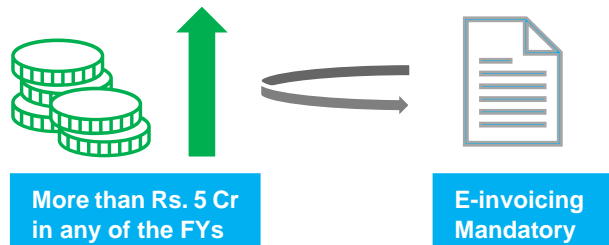


GST PORTAL: NEWS AND UPDATES

Advisory: Self-enablement for e-Invoicing

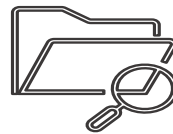
- On April 3, 2024, the GST Network (GSTN) issued an advisory seeking to remind the **compliance with mandatory e-invoicing requirement** for applicable taxpayers. Effective from April 1, 2024, all taxpayers with a **turnover exceeding INR 5 crores in the financial year 2023-2024, or in any of the preceding financial years**, must conduct e-invoicing for their outward transactions.

- Taxpayers who meet this threshold but have **not yet been enabled** on the e-invoicing portal are required to **voluntarily enable by visiting the GST e-Invoice Portal** at <https://einvoice.gst.gov.in>. They can commence reporting e-invoices through any of the four new Invoice Registration Portals (IRPs): IRP 3, IRP 4, IRP 5, and IRP 6. Alternatively, e-invoices can also be reported through NIC IRP 1 and 2 by enabling at IRP 1 and IRP 2.



Auto-population of the HSN-wise summary from e-invoices into Table 12 of GSTR-1

- The GSTN has introduced a significant enhancement to the GST filing process, effective April 9, 2024. This new feature enables the **automatic population of the HSN-wise summary from e-invoices** directly into **Table 12 of GSTR-1** on the GST portal.
- By facilitating the direct drafting of HSN data based on e-invoice information, this update aims to simplify and streamline the filing procedure.
- Taxpayers are advised to meticulously reconcile the auto-populated HSN-wise summary with their internal records before final submission. **Any discrepancies or errors identified should be manually corrected** or supplemented in Table 12 to ensure the accuracy and integrity of the GST returns.



HSN Details
from E invoicing



Auto-population in
Table 12 of GSTR1

SELECT CIRCULARS ISSUED BY THE CBIC

Circular No. 209/3/2024 – GST dated 26 June 2024

Clarification on the provisions of place of supply of goods in relation to unregistered persons

- Clarification has been issued in relation to **Place of supply of goods (particularly being supplied through an e-commerce platform) to unregistered persons** where **billing address is different from the address of delivery of goods**.
- Resolving ambiguities surrounding the interpretation of clause (ca) of Section 10(1) of IGST Act, 2017, it is clarified that the Place of Supply of goods where such supplies are made to an unregistered person shall be the **address of delivery of goods recorded on the invoice**.
- Further, recording the name of the State of delivery shall be deemed to be the recording of the address of the person to whom the goods are delivered. Also, where the billing address and delivery address is different, the supplier may record the delivery address as the address of the recipient on the invoice for determination of place of supply.



Circular No. 212/6/2024 – GST dated 26 June 2024

Mechanism for providing evidence of post-sale discount compliances by the suppliers

- This circular provides guidance on the **compliance mechanism for verifying the reversal of input tax credit (ITC) when discounts are offered via tax credit notes post-supply**, as per Section 15(3)(b)(ii) of the CGST Act, 2017.
- The conditions for excluding discounts from the taxable value are:
 - (1) Discounts must be established through an agreement made at or before the time of supply,
 - (2) Discounts must be specifically linked to relevant invoices, and

(3) ITC attributable to the discount must be reversed by the recipient.

Thus, post-supply discounts are excludible from the taxable value provided that the corresponding recipient reverses the attributable ITC.

- Currently, there is no functionality for suppliers or tax officers to verify this reversal on the GST common portal. Hence, as an interim measure, the **suppliers may obtain a certificate from the recipient, issued by a Chartered Accountant (CA) or a Cost Accountant (CMA)**, certifying that the **requisite ITC reversal in relation to the credit note issued by the supplier** offering the post-sale discount is done by the said recipient.

Circular No. 218/12/2024 – GST dated 26 June 2024

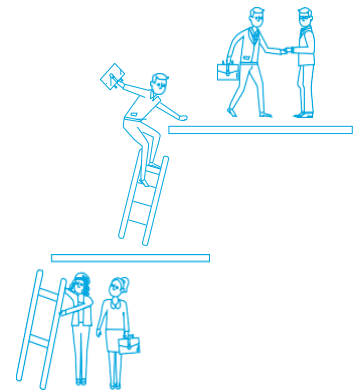
Clarification on GST taxability of loan transaction by an overseas affiliate to its Indian affiliate or between related persons

- This Circular addresses the GST implications in relation to loans provided by an overseas affiliate to its Indian affiliate or by a person to a related person. It clarifies that the service of granting loans, credit, or advances between related parties is considered a supply under GST law. However, services of extending deposits, loans, or advances are exempt from GST if the consideration is solely represented by interest or discount.
- Therefore, **loans between related parties without any additional charges like processing or administrative fees or loan granting charges shall not be chargeable to GST**. However, if any such additional fees or charges are recovered beyond interest or discount, it would be considered as provision of taxable services of processing/administrating the loan and would attract GST.

Circular No. 221/15/2024- GST dated 26 June 2024

Clarification on time of supply in relation to road construction and maintenance services by National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM)

- The given circular seeks to clarify the applicable time of supply for **National Highway Projects undertaken by NHAI where certain portion of the Bid Project Cost is received during the construction period and the balance is received through deferred payment spread over years**. In other words, the payment is made in a staggered manner over the contract period and the installments are linked to completion of an event or a milestone as per the contractual terms between the NHAI and the concessionaire.



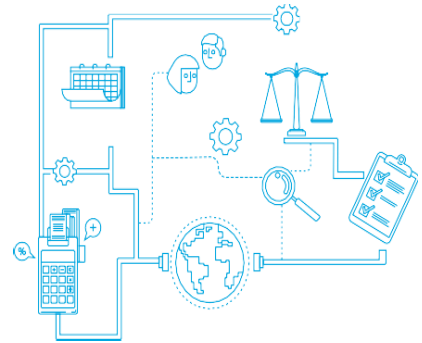
- It is clarified that said services are in the nature of '**continuous supply of services**', and the time of supply for the concessionaire under the HAM contract, including on the construction portion shall be as under;

<p>In case invoice is issued on or before the specified date / Date of completion of event specified in contract as applicable will be:</p>	<p>Earlier of:</p> <p>a) Date of issuance of invoice or</p> <p>b) Date of receipt of payment</p>
<p>In case invoice is not issued on or before the specified date / Date of completion of event specified in contract as applicable will be:</p>	<p>Earlier of:</p> <p>a) Date of provision of the said service (i.e due date of payment as per contract) or</p> <p>b) Date of receipt of payment</p>

Circular No. 207/1/2024-GST dated 26 June 2024

Setting monetary limits for filing of appeals/applications by the Department before Tribunals and Higher Courts

- This circular aims at the reduction of government litigation by **establishing monetary thresholds for filing appeals before the Goods and Services Tax Appellate Tribunal (GSTAT), High Courts, and the Supreme Court by the tax authorities.** The initiative, aligned with the National Litigation Policy, aims to optimize judicial resources and expedite case resolutions.
- In accordance with Section 120 of the CGST Act, 2017 read in conjunction with Section 168 of the CGST Act, 2017, the CBIC has laid down the below monetary limits and clarifies that **appeals shall not be filed by Central Tax officers if the disputed amount is not meeting the prescribed thresholds:**



Appellate Forum	Monetary Limit (amount involved in Rs)
GSTAT	20,00,000/-
High Court	1,00,00,000/-
Supreme Court	2,00,00,000/-

- These limits shall apply to the aggregate disputed tax amount only in cases involving demand of tax, interest and/or penalty. The circular also outlines principles for determining whether a case falls within these limits, such as considering the total amount in composite orders disposing off multiple appeals. Certain exclusions are noted where appeals must be filed on merits and irrespective of the monetary limits, such as cases involving constitutional issues, ultra vires laws or regulations, recurring legal interpretation issues, adverse comments against the government, or significant public interest cases.

KEY JUDICIAL PRONOUNCEMENT

M/S. SUNWODA ELECTRONIC INDIA PRIVATE LIMITED [2024 (6) TMI 11 - AUTHORITY FOR ADVANCE RULING, TAMILNADU] dated 30th April 2024

Facts of the Case:

M/s Sunwoda Electronic India Private Limited imported goods and warehoused them in a third-party Free Trade Warehousing Zone (FTWZ). The goods were sold on an "as is where is" basis to a customer who then cleared them to a bonded warehouse under the MOOWR Scheme. The applicant sought clarification on the applicability of GST on such transactions.

Applicant's Argument:

The applicant argued that the sale of goods warehoused in an FTWZ to a customer who subsequently moves the goods to a bonded warehouse should not attract GST. They based their argument on the provisions of the CGST Act, 2017, particularly focusing on the amendments to Schedule III which state that certain activities or transactions are neither treated as a supply of goods nor services.



Departmental Findings and the Ruling:

The Free Trade Warehousing Zone (FTWZ) operates as part of the SEZ scheme, functioning as a customs-bonded warehouse where goods can be stored without payment of customs duties. The goods only become subject to domestic taxes when cleared for home consumption. The Authority examined the provisions under Schedule III of the CGST Act, particularly clauses 7 and 8, which were added to clarify that certain transactions involving warehoused goods are not considered supply of goods or services under GST.

The Authority ruled that the sale of warehoused goods in the FTWZ to a customer, who clears them to a bonded warehouse under the MOOWR Scheme, does not attract GST. This transaction falls under **clause 8(a) of Schedule III of the CGST Act, 2017, which obliterates the supply of warehoused goods before clearance for home consumption from GST from being treated as a transaction of 'supply' under GST.**

The ruling clarified that **GST is not applicable on the sale of goods warehoused in a third-party FTWZ when sold on an "as is where is" basis to a customer who clears them to a bonded warehouse under the MOOWR Scheme.**

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This Newsflash summarizes on the GST Updates for the Quarter during April 2024 to June 2024. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said judgement and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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13th July 2024

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