



## Tax alert: Notifications, circulars issued pursuant to recommendations of GST Council in previous meetings

**12 July 2024**

The Central Board of Indirect Taxes and Customs (CBIC) issued notifications on 10 July 2024 regarding amendments in compliances, valuation of corporate guarantees, refunds, etc. pursuant to the recommendations of the GST Council. Circulars providing clarity on certain aspects were also issued on 11 July 2024.

### In a nutshell



GST law amended to provide for valuation methodology of corporate guarantee provided to related party and circular issued addressing specific open areas.



Form GSTR-1A notified for amendment of outward supply details furnished in Form GSTR-1 till the date of filing of Form GSTR-3B. Consequential amendments also made in the GST law.



Reduced rate of tax collected at source (TCS) at 0.50% for supplies made through electronic commerce operators, notified.



GST Law amendment along with Circular issued prescribing mechanism to claim refund of additional IGST paid due to an upward price revision after export notified refund in case of downward.



Procedure for distribution of input tax credit (ITC) through an input service distributor (ISD) prescribed in line with the amendment previously made in the GST law.



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## **The CBIC has issued notifications amending various provisions of GST law and circulars providing clarity on certain aspects pursuant to the recommendations of the GST Council at its previous meetings**

### **Changes in GST registration procedures**

- If Aadhar authentication is not opted at the time of filing application for registration, a photo of the applicant shall be taken at a facilitation centre and documents uploaded along with the application, shall be verified with original documents, at such centre.
- Notification relating to biometric Aadhar authentication in the states of Andhra Pradesh, Gujarat and Puducherry has been rescinded paving the way for roll-out of biometric Aadhar authentication on a PAN-India basis.

#### **Deloitte comments**

As per the recommendations of the GST Council, the PAN-India roll out of biometric Aadhar authentication would be done in a phased manner. It needs to be seen which states are picked for initial implementation of this mechanism. These changes will help streamline GST registration.

### **Changes in GST compliances**

- Form GSTR-1A notified for amending or furnishing additional details of outward supplies of goods and/or services after filing of Form GSTR-1 for a tax period but before filing of GSTR-3B for the said tax period.
- Following details are required to be furnished in Form GSTR-1A:
  - Invoice wise details of inter-state and intra-state supplies made to the registered persons as well as inter-state supplies with invoice value more than INR 1 lakh made to the unregistered persons.
  - Consolidated details of intra-state supplies made to unregistered persons for each rate of tax and state-wise inter-state supplies with invoice value up to INR 1 lakh made to unregistered persons for each rate of tax.
  - Debit and credit notes, if any, issued during the month for invoices issued previously.
- With the notification of Form GSTR-1A, requisite amendments made in the GST law for including the details furnished in the said statement for the purpose of availment and reversal of ITC, refunds, consent based sharing, etc.
- Interest shall not be charged on delayed debit of GST to the extent amount is available in electronic cash ledger on the due date and the same is debited while delayed in filing of Form GSTR-3B.
- Threshold for reporting of invoice wise B2C inter-state supplies in Form GSTR-1 is reduced from INR 2.5 lakhs to INR 1 lakh.
- Filing of annual return in Form GSTR-9/ 9A for the financial year 2023-24 is exempted for taxpayers having aggregate annual turnover of up to INR 2 crores.
- Rates for TCS for supplies made through electronic commerce operators reduced from 1% (IGST or CGST+SGST) to 0.50% (IGST or CGST+SGST).

#### **Deloitte comments**

The amendments pertaining to the GST compliance are in line with the proposals made in the 53<sup>rd</sup> GST Council meeting held on 22 June 2024. These amendments indicate the government's intent to facilitate

the industry with ease of doing business, by bringing in more transparency in the compliance reporting. Further, small business players are also provided with reasonable relaxations in ensuring compliances. Reduction in the threshold for reporting B2C supplies will assist the government with detailed information of the high value transactions, though it may result in additional compliance burden.

In alignment with the ruling pronounced by the Hon'ble High Court of Madras (Eicher Motors Ltd.), it is clarified that interest shall not be charged for the delayed filing of Form GSTR-3B in case of amount being available in the electronic cash ledger. This is a welcome move by the government which brings in the much-required clarity and puts this contentious issue to rest to some extent, given the contradictory judgement pronounced by the Hon'ble Patna High Court (Sincon Infrastructure (P.) Ltd.).

In case of belated GSTR-3B filing, since interest is automatically calculated, suitable technology upgradations will be required on the GST portal to this effect.

Reduction in the TCS rate would also help mitigate cash flow of suppliers for supplies made through electronic commerce operators.

### Changes relating to valuation of corporate guarantee

- Amendment has been made to prescribe that the valuation mechanism for payment of GST on corporate guarantee shall apply in cases where the recipient is located in India. Further, value shall be calculated on the guarantee offered per year.
- The value declared in the invoice shall be deemed to be the open market value if the recipient is eligible to avail full ITC.
- The amended rule is applicable to corporate guarantees issued/ renewed on or after 26 October 2023.
- Valuation shall be based on the guaranteed amount per annum or the actual consideration, whichever is higher, irrespective of the actual disbursed loan amount.
- Value of 1% of the guaranteed amount per annum to be calculated on a proportionate basis. For multi-year guarantees, 1% would be multiplied by the number of years of use or the actual consideration, whichever is higher.

### Deloitte comments

The amendment considers revenue neutrality, offering relief to taxpayers by allowing any valuation methodology subject to full eligibility for ITC, thus removing ambiguity.

The amendment and clarification would help in providing much needed relief to taxpayers who have received investigation notices on corporate guarantees, particularly where the taxpayer is eligible to claim full ITC.

It would also be pertinent to evaluate the taxability and the underlying valuation principles to be applied for the guarantees provided / renewed, prior to 26 October 2023, in line with the earlier valuation provisions.

### Changes related to ISD mechanism

- Vide the 50th Council meeting, the GST Council had proposed to make the ISD provisions mandatory prospectively, for distribution of ITC on common input services.

- While the enabling provision was substituted through the Finance Act, 2024, the corresponding procedures are also substituted.
- To enable the provision to distribute the ITC paid under reverse charge, it is made clear that a taxpayer having a same PAN and state code as an ISD, shall have to raise a tax invoice to transfer such credit to the ISD, for further distribution.
- The date of implementation of the ISD mechanism is yet to notified.

### **Deloitte comments**

While the current move of making the ISD mechanism mandatory prospectively will trigger preparedness by the industry, there are a few practical nuances that may still require clarifications, so as to facilitate ease of implementation.

This amendment, once notified, would require the industry to accordingly plan the operationalization of the ISD mechanism, including IT related changes, SoPs for procurement team(s), vendor communication etc.

### **Refund related changes**

- Refund of additional IGST paid due to an upward price revision after export can be claimed upon submission of specified documents confirming the price revision.
- Circular has been issued clarifying the mechanism of applying the additional refund. For cases where relevant date for applying refund was before the amendment, application can be filed within 2 years from the date of effect of the amendment, i.e., 10 July 2024.
- Further, it has been clarified that in case of downward revision of price, proportionate IGST refund has to be deposited with the exchequer, with interest.
- Canteen Stores Department (CSD) can claim a refund of 50% of Central GST paid on inward supplies of goods for subsequent supply to Unit-Run Canteens or authorized customers, by applying electronically in Form GST RFD-10A on quarterly basis.
- New circular has been issued clarifying revised procedure for electronic submission and processing of refund application by CSD.
- Timelines for realization of proceeds for export of service amended to be in line with Foreign Exchange Management Act.

### **Deloitte comments**

Even where the price negotiations are ongoing, the exporter would have exported the goods with a mutual agreement between the parties by deferring the final pricing to a later date. In case of upward revision of the prices, the taxpayer is eligible for the refund' hence, this mechanism of filing refund application facilitates the taxpayers in claiming the differential refund.

This is indeed a welcome move by the government which provides clarity in claiming the additional refund arising from the price revision.

### **GST appellate changes**

- Mechanism prescribed for manual filing of appeal subject to special/general order by registrar.

- Mechanism prescribed for withdrawing the appeal or application filed before the appellate tribunal.

### Guidelines for recovery of outstanding dues till Appellate Tribunal comes into operation

- Circular has been issued providing guidelines for recovery of outstanding dues, where order has been passed by first appellate authority, till operation of tribunal.
  - Taxpayers wishing to appeal should pay the pre-deposit amount through the Electronic Liability Register, which will be adjusted against the required pre-deposit amount when the Tribunal becomes operational.
  - Taxpayers must file an undertaking with the jurisdictional officer committing to file an appeal once the Tribunal is operational. On providing this undertaking and paying the pre-deposit, recovery of the remaining demand will be stayed.
  - If taxpayers do not make the payment or provide the undertaking, recovery proceedings will continue. Similarly, if appeals are not filed within the specified timelines once the Tribunal is operational, recovery of the remaining demand will continue.
  - In case of amounts inadvertently paid through Form GST DRC-03, taxpayers can apply for adjustment using Form GST DRC-03A once available. Until then, intimation to the proper officer can temporarily prevent recovery actions.

#### Deloitte comments

There were considerable ambiguities regarding the way forward where unfavourable orders were passed by appellate authorities and the taxpayers were unable to file appeals before tribunals, which led to initiation of recovery proceedings by jurisdictional authorities. Clarification issued by the CBIC on this issue would help taxpayers in avoiding such proceedings. However, there may be cash flow impact as pre-deposit would be required, even though the matter would be taken up by the tribunals once they are set up.

### E-way bill related changes

- E-way bill can be generated by an unregistered person in Form GST ENR-03, either directly or through a Facilitation Centre. Upon validation, a unique enrolment number will be generated and communicated to the person.

#### Deloitte comments

By extending the e-way bill requirement to unregistered dealers, issues relating to generation of e-way bills during pendency of GST registration could be resolved. This would facilitate movement of goods where new offices are being set up by businesses.

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