

Significant Notifications and Circulars issued in GST and Customs from 16th September, 2023 to 15th October, 2023

GST

Notifications

1. Amendment in Notification No. 11/2017-CT(R) dt. 28.06.2017 - Rates for supply of services

- a) Another condition has been introduced for taking input tax credit on input services in the same line of business in case of Passenger Transport Services and Rental services of transport vehicles with operators, restricting it to 2.5%, where the supplier of input service in the same line of business charges central tax at a rate higher than 2.5%.
- b) In case of services provided by a race club, the word 'totalisator or a license to' a bookmaker has been replaced with 'licensing a' bookmaker.
- c) The entry related to 'Gambling' has been omitted. Consequently, entries related to 'Gambling and betting services including similar online services' and 'Lottery services' in the scheme of classification of services has also been omitted.

[Notification No. 12/2023-CT\(R\) dt. 19.10.2023](#)

2. Amendment in Notification No. 12/2017-CT(R) dt. 28.06.2017 – Services exempt from levy of GST

Services provided to a Governmental Authority by way of water supply, public health, sanitation and conservancy, solid waste management and slum improvement and upgradation have been exempted from levy of GST.

[Notification No. 13/2023-CT\(R\) dt. 19.10.2023](#)

3. Amendment in Notification No. 12/2017-CT(R) dt. 28.06.2017 – Services exempt from levy of GST and Notification No. 13/2017-CT(R) dt. 28.06.2017 – Services leviable to reverse charge under GST

Supply of all goods and services by Indian Railways shall be taxed under Forward Charge Mechanism to enable them to avail ITC.

[Notification No. 13/2023-CT\(R\) dt. 19.10.2023, Notification No. 14/2023-CT\(R\) dt. 19.10.2023](#)

4. Amendment in Notification No. 15/2017-CT(R) dt. 28.06.2017 - No refund of unutilised input tax credit u/s 54(3) in case of supply of certain service

As per *Notification No. 15/2017-CT(R) dt. 28.06.2017*, no refund of unutilised input tax credit shall be allowed under sub-section (3) of section 54 in case of supply of services specified in sub-item (b) of item 5 of Schedule II. Now the said notification has been amended and the words '*specified in sub-item (b) of item 5 of Schedule II*' has been substituted with the words '*of construction of a complex, building or a part thereof, intended for sale to a buyer, wholly or partly, where the amount charged from the recipient of service includes the value of land or undivided share of land, as the case may be, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier*'.

[*Notification No.15/2023-CT\(R\) dt. 19.10.2023*](#)

5. Amendment in Notification No. 17/2017-CT(R) dt. 28.06.2023 – Services on which tax shall be paid by E-Commerce Operator (ECO)

Notification No. 17/2017-CT(R) dt. 28.06.2023 has been amended to provide that GST in case of services by way of transportation of passengers provided through Omnibus shall be paid by the ECO except where the supplier supplying such service through the ECO is a Company.

Further, 'Company' shall have the same meaning as assigned to it in section 2(20) of the Companies Act, 2013.

[*Notification No. 16/2023-CT\(R\) dt. 19.10.2023*](#)

6. Amendment in Notification No. 1/2017- CT (R) dt. 28.06.2017 - CGST rate schedule for goods

a) GST rate on molasses has been reduced from 14% to 2.5%.

b) Spirits for industrial use has been made taxable at the rate of 9%.

[*Notification No. 17/2023-CT \(R\) dt. 19.10.2023*](#)

7. Amendment in Notification No. 2/2017- CT (R) dt. 28.06.2017 - Power to grant exemption from tax and Notification No. 1/2017- CT (R) dt. 28.06.2017 - CGST rate schedule for goods.

Taxability of "Food preparation of millet flour in powder form, containing at least 70% millets by weight" has been amended as follows:

- a) other than pre-packaged and labelled form - 0% ([Notification No. 18/2023-CT \(R\) dt. 19.10.2023](#))
- b) pre-packaged and labelled form – 2.5% ([Notification No. 17/2023-CT \(R\) dt. 19.10.2023](#))

8. Amendment in Notification No. 4/2017-CT(R) dt. 28.06.2017 - Reverse charge on certain specified supplies of goods

As per the amended *Notification No. 4/2017-CT(R) dt. 28.06.2017*, tax shall be paid under forward charge when used vehicles, seized and confiscated goods, old and used goods, waste and scrap is supplied by Ministry of Railways (Indian Railways) to a registered person.

[Notification No. 19/2023-CT \(R\) dt. 19.10.2023](#)

9. Amendment in Notification No. 5/2017- CT(R) dt. 28.06.2017 - Supplies of goods in respect of which no refund of unutilised input tax credit shall be allowed where rate of tax on input is higher than rate of tax on output supplies of such goods

A new entry has been inserted in *Notification No. 5/2017- CT(R) dt. 28.06.2017* to provide that no refund of unutilised input tax credit under inverted duty structure shall be allowed in case of supply of imitation zari thread or yarn made out of Metallised polyester film /plastic film. An explanation has also been inserted providing that this shall apply for refund of input tax credit only on polyester film /plastic film.

[Notification No. 20/2023-CT \(R\) dt. 19.10.2023](#)

All the above Notifications have come into effect from 20th October, 2023.

Similar notifications have been issued under IGST Act as well as UTGST Acts.

10. Amendment in CGST Rules

In order to give effect to the recommendations made in the 52nd GST Council Meeting, the following amendment in the CGST Rules have been notified:

a) Amendment in Rule 28 - Value of supply of goods or services or both between distinct or related persons, other than through an agent

Rule 28 has been divided into two sub-rules. The existing rule has been re-numbered as sub-rule (1) and the sub-rule (2) has been inserted to prescribe the manner of calculation of value of supply in case of corporate guarantee. Hence, as per the newly inserted sub-rule (2), the value of supply of services by a supplier to a recipient who is a related person, by way of providing corporate guarantee to any

banking company or financial institution on behalf of the said recipient, shall be deemed to be-

- one per cent of the amount of such guarantee offered, or
- the actual consideration,

whichever is higher.

b) Amendment in Rule 142 - Notice and Order for demand of amounts payable under the Act

As per the amended rule 142, where the person chargeable with tax makes payment of tax and interest under section 73(8) or 74(8) or where the person concerned makes payment of the amount referred to in section 129(1), within the time prescribed under the said rule, he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an intimation (instead of an order) in FORM GST DRC-05 concluding the proceedings in respect of the said notice.

c) Amendment in Rule 159 – Provisional Attachment of Property

Rule 159(2) has been amended to provide that the Revenue Authority or Transport Authority or any such Authority who has placed encumbrance on the movable or immovable property on the order of the Commissioner, shall remove such encumbrance on the written instructions from the Commissioner to that effect or on expiry of a period of one year from the date of issuance of order under sub-rule (1), whichever is earlier. Consequent amendment has been made in Form GST DRC-22.

d) Amendment in Form REG-01 – Application for Registration

“One Person Company” has been added in the constitution of business in the Registration application Form REG-01.

e) Substitution of Form REG-08 - Order of Cancellation of Registration as Tax Deductor at source or Tax Collector at source

Form REG-08 has been classified into two categories *viz.*,

- Where the order has been issued on an application by the tax deductor or tax collector, or
- Where the order has been issued by the department after serving of show cause notice to the tax deductor or tax collector

f) Amendments in Form GSTR-8 - Statement for tax collection at source

- S. No. 5 asking the details of interest has been omitted.
- S. No. 7 asking the details of interest payable and paid has been amended. The amended row asks for interest as well as late fee details.
- S. No. 9 has also been amended on similar grounds by including late fee along with interest. The amended entry now asks for Debit entries in cash ledger for TCS, interest and late fee payment (to be populated after filing of statement).

g) Amendment in Form PCT-01 - Application for Enrolment as Goods and Services Tax Practitioner

The eligibility criteria for enrolment as GST Practitioner has been revised as follows:

S. No.	Old Criteria	Revised Criteria
1.	Chartered Accountant holding COP	Chartered Accountant
2.	Company Secretary holding COP	Company Secretary
3.	Cost and Management Accountant holding COP	Cost and Management Accountant
4.	Advocate	Graduate or Postgraduate or its equivalent degree in Law
5.	Graduate or Postgraduate degree in Commerce	Graduate or Postgraduate or its equivalent degree in Commerce
6.	Graduate or Postgraduate degree in Banking	Graduate or Postgraduate or its equivalent degree in Banking including Higher Auditing
7.	Graduate or Postgraduate degree in Business Administration	Graduate or Postgraduate or its equivalent degree in Business Administration
8.	Graduate or Postgraduate degree in	Graduate or Postgraduate or its

	Business Management	equivalent degree in Business Management
9.	Degree examination of any recognized Foreign University	Degree examination of any Foreign University recognized by any Indian University
10.	Retired Government Officials	Retired Government Officials
11.	Sales Tax practitioner under existing law for a period of not less than five years	Sales Tax practitioner under existing law for a period of not less than five years
12.	Tax return preparer under existing law for a period of not less than five years	Tax return preparer under existing law for a period of not less than five years
13.	-	Any other examination notified by Government

Sr. No. (4) to (8) of the table should be from an Indian University established by any law for the time being in force.

[Notification No. 52/2023-CT dt. 26.10.2023](#)

11. Amendment in *Notification No. 01/2023-IT dt. 31.07.2023* - Supplies and class of registered person eligible for refund under IGST Route

As per the amendment in *Notification No. 01/2023-IT dt. 31.07.2023*,

- all classes of goods or services (except goods like pan-masala and tobacco) have been notified as the class of goods or services which may be exported on payment of integrated tax and on which the supplier of such goods or services may claim the refund of tax so paid, and
- all suppliers to a Developer or a unit in Special Economic Zone undertaking authorised operations have been notified as the class of persons who may make supply of goods or services (except goods like pan-masala and tobacco) to such Developer or a unit in Special Economic Zone for authorised operations on payment of integrated tax and on which the said suppliers may claim the refund of tax so paid.

Further, as per the explanation provided in the Notification:

- i) the term “authorized operations” shall have the same meaning as defined in clause (c) of Section 2 of the Special Economic Zone Act, 2005 (28 of 2005),
- ii) the term “Developer” shall have the same meaning as defined in clause (g) of Section 2 of the Special Economic Zone Act, 2005 (28 of 2005),
- iii) the term “Special Economic Zone” shall have the same meaning as defined in clause (za) of Section 2 of the Special Economic Zone Act, 2005 (28 of 2005),
- iv) the term “unit” shall have the same meaning as defined in clause (zc) of Section 2 of the Special Economic Zone Act, 2005 (28 of 2005)

[Notification No. 05/2023-IT dt. 26.10.2023](#)

12. Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2023.

The Ministry of Finance through its Department of Revenue has notified the following rules for Appointment and Conditions of Service of President and Members of GSTAT:

- a) Chapter I – Preliminary
- b) Chapter II - Appointment of President and Member
- c) Chapter III – Removal of President or Member
- d) Chapter IV – Salary and Allowances
- e) Chapter V – Pension, Provident Fund, Gratuity and Leave
- f) Chapter VI – Powers of President and Vice-President
- g) Chapter VII – Miscellaneous

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13. Relaxation for filing appeals against demand orders passed till 31.03.2023 under Section 73 or 74 of the CGST Act, 2017

Taxable persons

- who could not file an appeal against the order passed by the proper officer on or before 31.03.2023 under section 73 or 74 within 3 months specified in section 107(1) or the extended period of 1 month as specified under section 107(4) of the CGST Act, and

- whose appeal against the said order was rejected solely on the grounds that the said appeal was not filed within the time period specified in section 107,

shall file an appeal against the said order in FORM GST APL-01 in accordance with section 107(1) on or before 31st day of January 2024.

Further, an appeal against the said order filed in accordance with the provisions of section 107 of the Act, and pending before the Appellate Authority before the issuance of this notification, shall be deemed to have been filed in accordance with this notification, if the appellant has paid:

- a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- b) a sum equal to 12.5% of the remaining amount of tax in dispute arising from the said order, subject to a maximum of Rs. 25 Crore rupees, in relation to which the appeal has been filed, out of which at least 20% should have been paid by debiting from the Electronic Cash Ledger.

No refund shall be granted on account of this notification till the disposal of the appeal, in respect of any amount paid by the appellant, either on their own or on the directions of any authority (or) court, in excess of the amount paid by the appellant as specified above before the issuance of this notification, for filing an appeal section 107(1).

No appeal under this notification shall be admissible in respect of a demand not involving tax.

Furthermore, the provisions of Chapter XIII 'Appeals and Revision' of the CGST Rules, 2017 shall mutatis mutandis, apply to an appeal filed under this notification.

[Notification No. 53/2023-CT dt. 02.11.2023](#)

Circulars

1. Clarification relating to export of services – Section 2(6)(iv) of the IGST Act, 2017

It has been clarified that when the Indian exporters, undertaking export of services are paid the export proceeds in INR from the Special Rupee Vostro Accounts of correspondent bank(s) of the partner trading country opened by AD banks, the same shall be considered to be fulfilling the conditions of sub-clause (iv) of clause (6) of section 2 of IGST Act, 2017, subject to the conditions/ restrictions mentioned in Foreign Trade Policy, 2023 & extant RBI Circulars and without prejudice to the permissions / approvals, if any, required.

[Circular No. 202/14/2023-GST dt. 27.10.2023](#)

2. Clarification regarding determination of place of supply in various cases

A. Place of supply in case of supply of service of transportation of goods, including through mail and courier

Section 13(9) of the IGST Act, 2017 which provided that the place of supply in case of service of transportation of goods, other than by way of mail and courier, in cases where location of supplier of services or location of recipient of services is outside India shall be the destination of such goods, has been omitted vide Finance Act, 2023, w.e.f. 01.10.2023. Consequently, after the amendment comes into force, the place of supply in such case shall be determined by the default rule under section 13(2) of the IGST Act. Accordingly, in cases where location of recipient of services is available, the place of supply of such services shall be the location of recipient of services and in cases where location of recipient of services is not available in the ordinary course of business, the place of supply shall be the location of supplier of services.

Further, the place of supply in case of service of transportation of goods by mail or courier will continue to be determined by the default rule under section 13(2) of IGST Act.

B. Place of supply in case of supply of services in respect of advertising sector

- (i) Place of supply where there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure:

Place of supply in such case shall be location where such hoarding/ structure is located.

- (ii) Place of supply where the vendor himself owns the structure or takes it on rent or rights to use from another person and is responsible for display of the advertisement of the advertising company at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure.

The said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property. Accordingly, the place of supply of the same shall not be covered under section 12(3)(a) of IGST Act. Such services provided by the vendor to advertising company are purely in the nature of advertisement services in respect of which Place of Supply shall be determined in terms of section 12(2) of IGST Act.

C. Place of supply in case of supply of the “co-location services”

Co-location is a data center facility in which a business/company can rent space for its own servers and other computing hardware along with various other bundled services related to Hosting and information technology (IT) infrastructure.

It has been clarified that the Co-location services are in the nature of Hosting and information technology (IT) infrastructure provisioning services. (S. No. 3 of Explanatory notes of SAC-998315). Supply of co-location services cannot be considered as the service of renting immovable property. Therefore, the place of supply of the colocation services shall not be determined by the provisions of section 12(3)(a) of the IGST Act but shall be determined by the default provision under section 12(2) of the IGST Act i.e., location of recipient of co-location service.

However, in cases where the agreement between the supplier and the recipient is restricted to providing physical space on rent along with basic infrastructure, without components of Hosting and IT Infrastructure Provisioning services and the further responsibility of upkeep, running, monitoring and surveillance, etc. of the servers and elated hardware is of recipient of services only, then the said supply of services shall be considered as the supply of the service of renting of immovable property. Accordingly, the place of supply of these services shall be determined by the provisions of section 12(3)(a) of the IGST Act which is the location where the immovable property is located.

[Circular No. 203/15/2023-GST dt. 27.10.2023](#)

3. Clarification on issues pertaining to taxability of personal guarantee and corporate guarantee in GST.

- (a) Whether the activity of providing personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not?

The activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration.

In terms of rule 28 of the CGST Rules, the taxable value of such supply of service shall be the open market value of such supply. However, as per para 2.2.9 of *RBI Circular No. RBI/2021-22/121 dated 9th November, 2021*, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits. Hence, when no consideration can be paid

for the said transaction by the company to the director in any form, directly or indirectly, as per RBI mandate, there is no question of such supply/ transaction having any open market value. Accordingly, the open market value of the said transaction/ supply may be treated as zero and therefore, the taxable value of such supply may be treated as zero. In such a scenario, no tax is payable on such supply of service by the director to the company.

However, in cases, where the director, who had provided the guarantee, is no longer connected with the management but continuance of his guarantee is considered essential because the new management's guarantee is either not available or is found inadequate, or there may be other exceptional cases where the promoters, existing directors, other managerial personnel, and shareholders of borrowing concerns are paid remuneration/ consideration in any manner, directly or indirectly, the taxable value of such supply of service shall be the remuneration/ consideration provided to such a person/ guarantor by the company, directly or indirectly.

- (b) Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services?

Where the corporate guarantee is provided by a holding company, for its subsidiary company, those two entities also fall under the category of 'related persons'. Hence the activity of providing corporate guarantee by a holding company to the bank/financial institutions for securing credit facilities for its subsidiary company, even when made without any consideration, is also to be treated as a supply of service by holding company to the subsidiary company, being a related person, as per the provisions of Schedule I of CGST Act.

Hence, in such a case, the taxable value will be determined as per rule 28 of CGST Rules. Consequently, sub-rule (2) has been inserted in rule 28 vide *Notification No. 52/2023 dated 26.10.2023*, for determining the taxable value of such supply of services between related persons in respect of providing corporate guarantee, irrespective of whether full ITC is available to the recipient of services or not.

Further, it has been clarified that rule 28(2) shall not apply in respect of the activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies and the same shall be valued in the manner provided in S. No. (a) above.

[Circular No.204/16/2023-GST dt. 27.10.2023](#)

4. Clarification regarding GST rate on imitation zari thread or yarn based on the recommendation of the GST Council in its 52nd meeting

It has been clarified that imitation zari thread or yarn made from metallised polyester film/ plastic film falling under HS 5605 are covered by Sl. No. 218AA of Schedule I of *Notification No. 1/2017-Central Tax (Rate) dated 28.6.2017* attracting 5% GST. Further, no refund will be permitted on polyester film (metallised)/plastic film on account of inversion of tax rate. Requisite changes have been made in *Notification No. 5/2017-Central Tax (Rate) vide Notification no. 20/2023-Central Tax (Rate) dt. 19.10.2023.*

[Circular No. 205/17/2023-GST dt. 31.10.2023](#)

5. Clarifications regarding the applicability of GST on certain services

A. Whether ‘same line of business’ in case of passenger transport service and renting of motor vehicles includes leasing of motor vehicles without operators?

Input services in the same line of business as stated in the *Notification No. 11/2017-Central Tax (Rate)* include transport of passengers (SAC 9964) or renting of motor vehicle with operator (SAC 9966) and not leasing of motor vehicles without operator (SAC 9973) which attracts GST and/or compensation cess at the same rate as supply of motor vehicles by way of sale.

B. Whether GST is applicable on reimbursement of electricity charges received by real estate companies, malls, airport operators etc. from their lessees/occupants?

Whenever electricity is being supplied bundled with renting of immovable property and/or maintenance of premises, as the case may be, it forms a part of composite supply and shall be taxed accordingly. The principal supply is renting of immovable property and/or maintenance of premise, as the case may be, and the supply of electricity is an ancillary supply as the case may be.

Even if electricity is billed separately, the supplies will constitute a composite supply and therefore, the rate of the principal supply shall be applicable.

However, where the electricity is supplied by the Real Estate Owners, Resident Welfare Associations (RWAs), Real Estate Developers etc., as a pure agent, it will not form part of the value of their supply. Further, where they charge for electricity on actual basis that is, they charge the same amount for electricity from their lessees or occupants as charged by the State Electricity Boards or DISCOMs from them, they will be deemed to be acting as pure agent for this supply.

C. Whether job work for processing of “Barley” into “Malted Barley” attracts GST@ 5% as applicable to "job work in relation to food and food products" or 18% as applicable on “job work in relation to manufacture of alcoholic liquor for human consumption”?

Malt being a food product, can be directly consumed as part of food preparations or can be used as an ingredient in food products and also used for manufacture of beer and alcoholic liquor for human consumption. However, irrespective of end-use, conversion of barley into malt amounts to job work in relation to food products.

Hence, it has been clarified that job work services in relation to manufacture of malt are covered by the entry at Sl. No. 26 (i) (f) which covers “job work in relation to all food and food products falling under chapters 1 to 22 of the customs tariff” irrespective of the end use of that malt and attracts 5% GST.

D. Whether District Mineral Foundations Trusts (DMFTs) set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority?

It is clarified that DMFT set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.

E. Whether supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25% of the total value of supply) made to CPWD are eligible for exemption from GST under Sr. No. 3 and 3A of Notification no 12/2017-CTR dated 28.06.2017?

It has been clarified that supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25% of the total value of supply) made to CPWD are eligible for exemption from GST under Sr. No. 3 and 3A of Notification no 12/2017-CT(R) dated 28.06.2017.

[Circular No.206/18/2023-GST dt. 31.10.2023](#)

Customs

Notifications

1. Exemption to Foreign Going Vessel converted for a coastal run

As recommended in the 52nd GST Council Meeting, with effect from 20.10.2023, Foreign Going Vessel converted for a coastal run has been exempted from the levy of customs duty as well as IGST, provided such vessel re-converts to a foreign going vessel within six months from the date of such conversion.

Foreign going vessel” shall have the same meaning as assigned to it under clause (21) of section 2 of the Customs Act, 1962.

“Conversion to coastal Vessel” shall include the vessel granted necessary license under the Merchant Shipping Act,1958.

2. Import of Gold or Silver or both by banks

Import of Gold or Silver or both are exempted if imported by certain banks. The list of banks specified for this purpose has been substituted with the following banks:

1. Axis Bank Limited
2. Bank of India
3. Federal Bank Limited
4. HDFC Bank Limited
5. Industrial and Commercial Bank of China Limited
6. ICICI Bank Limited
7. IndusInd Bank Limited
8. Indian Overseas Bank
9. Kotak Mahindra Bank Limited
10. Karur Vysya Bank Limited
11. Punjab National Bank
12. RBL Bank Limited
13. State Bank of India
14. Union Bank of India
15. Yes Bank Limited

[Notification No. 60/2023-Customs dt. 19.10.2023](#)