



## The Institute of Chartered Accountants of India

### GST & Indirect Taxes Committee

## GOODS & SERVICES TAX UPDATE-224

### 1. Clarification on the taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company

Companies provide option of allotment of securities/shares to their employees as a means of incentivization and the same is commonly referred to as an Employee Stock Purchase Plan (ESPP) or Employee Stock Option Plan (ESOP) or Restricted Stock Unit (RSU). Such specific terminology usage depends on the agreed-upon compensation terms between the employer and the employee. Regardless of the terminology used, the fundamental essence of the transaction remains the same i.e. the allocation of securities or shares from the employer to employee as part of compensation package with the aim of motivating enhanced performance.

It is clarified that no supply of service appears to be taking place between the foreign holding company and the domestic subsidiary company where the foreign holding company issues ESOP/ESPP/RSU to the employees of domestic subsidiary company, and the domestic subsidiary company reimburses the cost of such securities/shares to the foreign holding company on cost-to-cost basis. However, in cases where an additional amount over and above the cost of securities/shares is charged by the foreign holding company from the domestic subsidiary company, by whatever name called GST would be leviable on such additional amount charged as consideration for the supply of services of facilitating/ arranging the transaction in securities/ shares by the foreign holding company to the domestic subsidiary company. The GST shall be payable by the domestic subsidiary company on reverse charge basis in such a case on the said import of services.

[Circular No.-213/07/2024-GST dated 26.06.2024](#)

### 2. Clarification on the requirement of reversal of input tax credit in respect of the portion of the premium for life insurance policies which is not included in taxable value

**Issue:** Whether the amount of insurance premium, which is not included in the taxable value as per rule 32(4) of CGST Rules applicable for life insurance business, shall be treated as pertaining to a non-taxable supply/ exempt supply for the purpose of reversal of input tax credit as per section 17(1) of CGST Act read with rule 42 & 43 of CGST Rules?

**Clarification:** It is clarified that the amount of the premium for taxable life insurance policies, which is not included in the taxable value as determined under rule 32(4) of the CGST Rules, cannot be considered as pertaining to a non-taxable or exempt supply and therefore, there is no requirement of reversal of input tax credit as per provisions of rule 42 or rule 43 of CGST Rules, read with sub-section (1) and sub-section (2) of section 17 of CGST Act, in respect of the said amount.

**[Circular No.-214/8/2024-GST dated 26.06.2024](#)**

***Vice - Chairman  
GST & Indirect Taxes Committee***

***Chairman  
GST & Indirect Taxes Committee***

*The GST Update is an endeavour of the GST & Indirect Taxes Committee of ICAI to apprise the readers with the amendments made in the GST law vide significant notifications, circulars etc. The Committee welcomes your feedback on the Update at [gst@icai.in](mailto:gst@icai.in). Please visit the website of the Committee <https://idtc.icai.org/index.php> for previous GST Updates and other knowledge resources on GST like articles, publications, legal updates, newsletter etc. as also for the information on upcoming events on GST organised by the Committee.*

*Information published in the Update is taken from publicly available sources and is believed to be accurate. The GST & Indirect Taxes Committee of ICAI takes no responsibility of accuracy and reliability of information published in the Update. No part of this Update may be reproduced, stored in a retrieval system, or transmitted in any form or by any means – electronic, mechanical, photocopying, recording, or otherwise without the permission of GST & Indirect Taxes Committee of ICAI.*

*The Institute of Chartered Accountants of India, ICAI Bhawan, A-29, Sector 62, Noida (U.P.)-201301*