

Nucleus ADVISORS

Roundup

June 2024 | F&A | Volume XLVI



Welcome to our
monthly newsletter

We bring you a concise and noteworthy regulatory developments in Income Tax, Goods & Services Tax, Companies Act during June 2024. We had tried to cover all important updates occurred during June 2024 in this volume of newsletter. The sole purpose of this circulation is to update finance professionals and business owners on direct & indirect taxes and other compliances. Feedbacks are welcome at info@nucleusadvisors.in.



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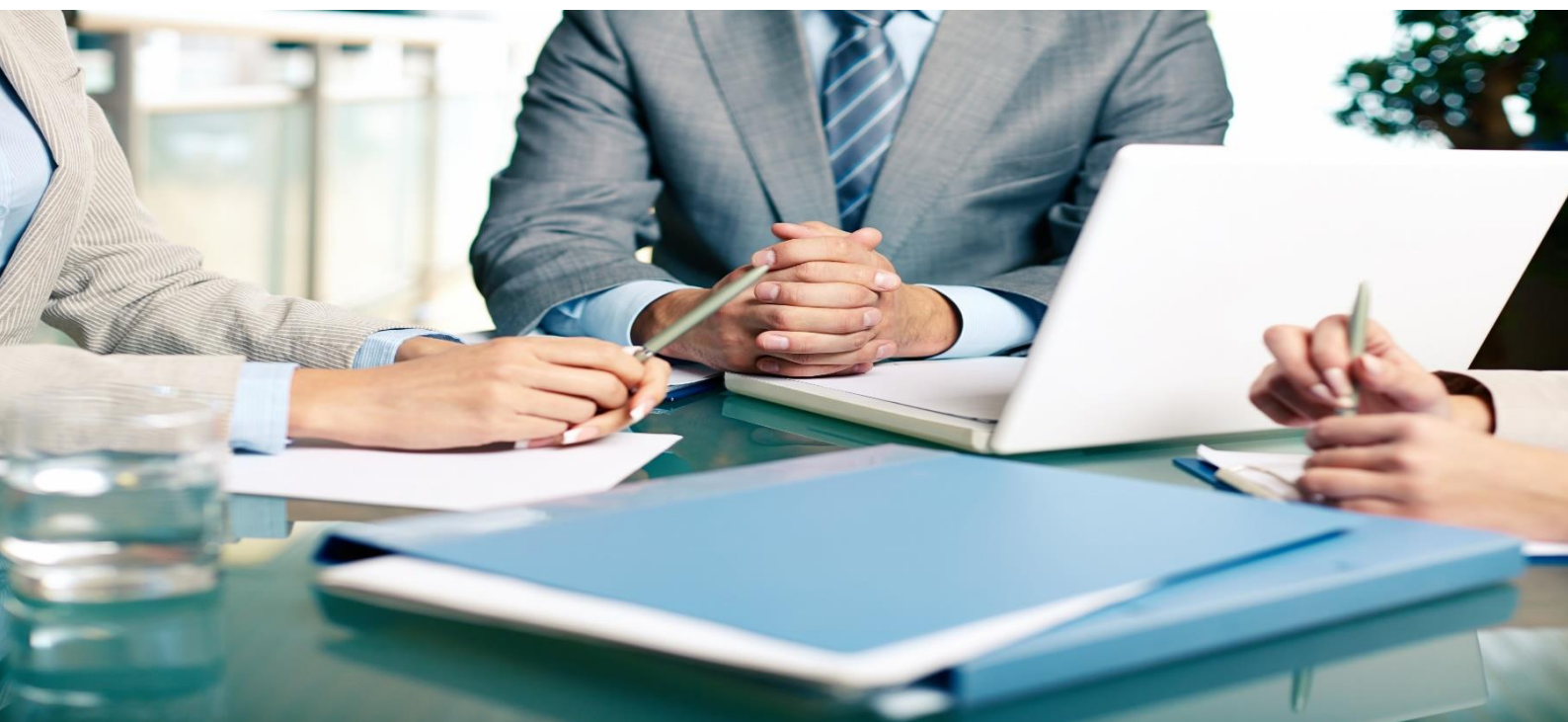
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Compliance Calender



Why this Volume of Newsletter is important for reader?

Through the series of this newsletter, we aim at covering all relevant Income Tax, Goods & Service Tax, MCA, Audit & Assurance notification, circulars and case laws which may directly or indirectly impact our readers. At Nucleus, it is our utmost priority to help our readers to be informed with respect to the changes in relevant laws for a smoother compliance.



Direct Tax Updates

- Specifying Forms prescribed in Appendix-II of the Income Tax Rules 1962, to be furnished electronically.
- Income-tax (Sixth Amendment) Rules, 2024.

GST Updates

Advisory Issued:

- Filing of information by manufacturer of Pan Masala and Tobacco taxpayers.
- Reduction of Government Litigation - fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court - Circular No. 207/1/2024-GST.
- Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities as per Notification No. 04/2024 - Central Tax dated May 1,2024 - Circular No. 208/2/2024-GST.
- Clarification on the provisions of clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to place of supply of goods to unregistered persons - Circular No. 209/3/2024-GST.
- Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit - Circular No. 210/4/2024-GST.
- Clarification on time limit under Section 16(4) of CGST Act, 2017 in respect of RCM supplies received from unregistered persons - Circular No. 211/5/2024-GST.
- Mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers - Circular No. 212/6/2024-GST.
- Clarification on the taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company - Circular No. 213/7/2024-GST.
- 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 - Circular No. 214/8/2024-GST.
- Clarification on taxability of salvage/ wreck value earmarked in the claim assessment of the damage caused to the motor vehicle - Circular No. 215/9/2024-GST.
- Clarification in respect of GST liability and input tax credit (ITC) availability in cases involving Warranty/ Extended Warranty, in furtherance to Circular No. 195/07/2023-GST dated 17.07.202 - Circular No. 216/10/2024-GST.
- Entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement - Circular No. 217/11/2024-GST.
- Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person - Circular No. 218/12/2024-GST.
- Clarification on availability of input tax credit on ducts and manholes used in network of optical Fiber cables (OFCs) in terms of section 17(5) of the CGST Act, 2017 - Circular No. 219/13/2024-GST.
- Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors - Circular No. 220/14/2024-GST.
- Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model - Circular No. 221/15/2024-GST.
- Clarification on time of supply of services of spectrum usage and other similar services under GST - Circular No. 222/16/2024-GST.

MCA Updates

- MCA extends deadline of filing form PAS-7.



DIRECT TAX UPDATES

➤ **Specifying Forms prescribed in Appendix-II of the Income Tax Rules, 1962, to be furnished Electronically.**

The Director General of Income Tax (Systems), with the approval of the Board, hereby specifies that the following Forms shall be furnished electronically and shall be verified in the manner prescribed under sub-rule (1) of Rule 131:

SI No.	Form	Description
1	3CN	Application for notification of affordable housing project as specified business under section 35AD of the Income-tax Act
2	3CS	Application for notification of a semiconductor wafer fabrication manufacturing unit as specified business under section 35AD of the Income tax-Act
3	3CEC	Application for a Pre-filing meeting
4	3CEFB	Application for Opting for Safe Harbour in respect of Specified Transactions
5	59	Application for approval of issue of public companies under section 80C(2)(xlx) the Income-tax Act
6	59A	Application for approval of Mutual funds investing in the eligible issue of public companies under section 80C(2)(xx) of the Income Tax Act

➤ Income-tax (Sixth Amendment) Rules, 2024

In the Income-tax Rules, 1962, in Form No. 27Q, in the Annexure, under the heading “Verification” in the Notes, after Note No. 7, the following Note shall be inserted, namely:

‘7A. Write “P” if lower deduction or no deduction is in view of notification issued under sub-section (1F) of section 197A

SECTION 197A(1F) : DEDUCTION OF TAX AT SOURCE - NO DEDUCTION IN CERTAIN CASES

the Central Government hereby notifies that no deduction of tax under Chapter XVII of the said Act shall be made on the payments of the nature specified below, in case such payment is made by a person to a bank listed in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), excluding a foreign bank, namely:-

- (i) bank guarantee commission;
- (ii) cash management service charges;
- (iii) depository charges on maintenance of DEMAT accounts;
- (iv) charges for warehousing services for commodities;
- (v) underwriting service charges;
- (vi) clearing charges (MICR charges);
- (vii) credit card or debit card commission for transaction between the merchant establishment and acquirer bank.

Advisory Issued

Filing of information by manufacturers of Pan Masala and Tobacco taxpayers

The government had earlier issued Notification No. 04/2024 - Central Tax dated 05-01-2024, requiring specific information from taxpayers dealing in certain goods. Two forms have been introduced under this notification:

1. Form GST SRM-I:

- Pertains to the registration and disposal of machines.
- Available on the portal from 15-05-2024.
- Taxpayers are currently using this form to register machines and provide the required information.

2. Form GST SRM-II:

- Requires details of inputs and outputs for each month.
- Now available on the portal.
- Mandatory for taxpayers involved in the manufacture of Pan Masala and Tobacco products to report monthly procurement and consumption details.

Taxpayers in the relevant sectors must comply with these requirements and submit the necessary forms accordingly.

1. **Reduction of Government Litigation - fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court - reg - Circular No. 207/1/2024-GST**

The National Litigation Policy aims to use judicial resources wisely and speed up the resolution of pending cases. It emphasizes that the government should avoid filing appeals in tax cases unless the amount involved is above a certain limit. This helps prevent unnecessary legal battles, especially when similar cases have already been decided by higher courts.

Under Section 120 of the Central Goods and Services Tax (CGST) Act, the Central Board of Indirect Taxes & Customs (CBIC) can set these monetary limits. Here are the current limits:

- Appeals to the Goods and Service Tax Appellate Tribunal (GSTAT): Rs. 20,00,000
- Appeals to the High Court: Rs. 1,00,00,000
- Appeals to the Supreme Court: Rs. 2,00,00,000

When deciding if an appeal should be filed, only the disputed amount of tax, interest, penalty, or late fee is considered. If the amount is below these limits, an appeal should not be filed, except in certain special cases such as those involving constitutional issues, recurring legal questions, or significant adverse comments against the government. The goal is to reduce unnecessary litigation and provide certainty to taxpayers. Appeals should only be filed based on the merits of the case, not just because the amount involved is above the limit. If an appeal is not filed due to the monetary limit, it does not mean the government agrees with the decision. The government can still appeal similar cases if the disputed amount exceeds the limit.

2. Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities as per Notification No. 04/2024 - Central Tax dated May 1,2024- Circular No. 208/2/2024-GST

The 50th GST Council meeting recommended a special procedure for manufacturers of specified goods. This was initially notified on July 31,2023 and revised on May 1,2024. Clarifications were needed for the implementation of this procedure. Here are the issues raised and the corresponding clarifications.

Serial no.	Issued Raised by Trade	Clarification on the issue
1.	Non-availability of make, model number, and machine number for older or second-hand packing machines.	In Table 6 of FORM GST SRM-I (Notification No. 04/2024-CT dated May 1,2024): Make and model number are optional. If the make is unavailable, the year of purchase may be used. The machine number is mandatory. If unavailable, the manufacturer may assign a numeric number and provide it in Table 6.
2.	If the electricity consumption rating of the packing machine is unavailable in the specifications or documents, the manufacturer may estimate the rating and declare it in Table 6 of FORM GST SRM-I.	If the electricity consumption rating of the packing machine is not available on the machine or in the documents/records, the manufacturer must have the rating calculated and certified by a Chartered Engineer using FORM GST SRM-III (Notification No. 04/2024-CT dated May 1,2024). This certified rating should be declared in Table 6 of FORM GST SRM-I, and the certificate must be uploaded with FORM GST SRM-I. Details of the uploaded documents should be provided in Table 10. If there are multiple certificates, they may be uploaded as a single PDF file.
3.	For goods without an MRP, such as those manufactured for export, report the transaction value in Column 8 of Table 9 of FORM GST SRM-II.	For packages without an MRP, enter the sale price of the goods in Column 8 of Table 9 of FORM GST SRM-II (Notification No. 04/2024-CT dated May 1,2024).
4.	What should be the qualification and eligibility of the Chartered Engineer for providing Chartered Engineer certificate under the special procedure notified vide Notification No. 04/2024-CT dated May 1,2024?	A Practicing Chartered Engineer with a certificate of practice from the Institute of Engineers India (IEI) is qualified to provide the Chartered Engineer certificate under Notification No. 04/2024-CT.
5.	Whether the special procedure notified vide Notification No. 04/2024-CT dated May 1,2024 is applicable to the manufacturing units located in Special Economic Zone (SEZ)?	The special procedure in Notification No. 04/2024-CT dated May 1,2024 is not applicable to manufacturing units in Special Economic Zones (SEZs).
6.	Whether the special procedure notified vide Notification No. 04/2024-CT dated May 1,2024 is applicable to the manual processes using electric operated heat sealer and seamer?	The special procedure in Notification No. 04/2024-CT dated May 1,2024 does not apply to manual seamer/sealer for packing operations or manual packing

		operations like post-harvest packing of tobacco leaves.
7.	In cases where multiple machines are required for filling, capping and packing of containers, the serial number of which machines is required to be declared in Table 6 of FORM GST SRM-I?	Report details of the machine used for the final packing of specified goods in Table 6 of FORM GST SRM-I.
8.	In case of job work or contract manufacturing, which person shall be required to comply with the special procedure as notified vide Notification No. 04/2024-CT dated May 1,2024?	The special procedure under Notification No. 04/2024-CT dated May 1,2024 applies to all persons in the manufacturing process, including job workers or contract manufacturers. If the job worker or contract manufacturer is unregistered, the principal manufacturer is liable to comply with the procedure.

These clarifications ensure uniform implementation of the special procedure across all manufacturing units.

3. Clarification on the provisions of clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to place of supply of goods to unregistered persons- Circular No. 209/3/2024-GST.

Place of supply of goods (particularly being supplied through e-commerce platform) to unregistered persons where billing address is different from the address of delivery of goods:

For supply of goods to an unregistered person, if the delivery address on the invoice differs from the billing address, the place of supply is determined by the delivery address. The supplier can use the delivery address as the recipient's address on the invoice to determine the place of supply.

4. Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit - Circular No. 210/4/2024-GST

Rule 28 specifies how to determine the value of goods or services supplied between distinct or related persons, excluding transactions through an agent. It states:

- Use the open market value if available.
- If not available, use the value of goods or services of similar kind and quality.
- If still not determinable, apply Rule 30 or Rule 31.
- If goods are for further supply by the recipient, the value can be 90% of the price charged for similar goods by the recipient to unrelated customers.
- If the recipient can claim full input tax credit, the invoice value is deemed as the open market value.

According to the second proviso to Rule 28(1) of the CGST Rules and Circular No. 199/11/2023-GST dated 17.07.2023, in cases where services are supplied between distinct or related persons and the recipient is eligible for full input tax credit:

- The value declared in the invoice by the supplier shall be deemed to be the open market value of the services.

- If no invoice is issued by the supplier for certain services, the value may be deemed as Nil and considered as the open market value.

This applies to both domestic transactions between head office and branch offices and import of services from foreign affiliates to related domestic entities.

5 Clarification on time limit under Section 16(4) of CGST Act, 2017 in respect of RCM supplies received from unregistered persons - Circular No. 211/5/2024-GST

Clarification on ITC Availment under RCM

Issue:

Interpretation of Section 16(4) of the CGST Act:

- Field formations interpret the relevant year of the invoice based on the year in which the supply was received, limiting ITC availability.

- Industry argues the relevant year is when the invoice is issued by the recipient, allowing ITC until the following financial year's September/November.

Relevant Provisions:

1. Section 16(2)(a) of the CGST Act:

- A registered person can claim ITC only if they possess a tax invoice, debit note, or other prescribed tax-paying documents.

2. Rule 36(1)(b) of the CGST Rule:

- ITC can be availed based on invoices issued under Section 31(3)(f) of the CGST Act, subject to tax payment.

3. Section 16(4) of the CGST Act (as amended by the Finance Act, 2022):

- Sets a time limit for availing ITC, linked to the financial year of the invoice or debit note.

4. Section 31(3)(f) of the CGST Act:

- For supplies where tax is payable by the recipient under RCM from an unregistered supplier, the recipient must issue the invoice.

Clarification:

- The relevant financial year for ITC availment under Section 16(4) is the year in which the recipient issues the invoice under RCM.

- Delayed issuance of the invoice may attract interest and penalties under Section 122 of the CGST Act.

- ITC can be claimed based on the invoice issued by the recipient under RCM, and the relevant financial year for ITC availment is the year of invoice issuance, subject to tax payment and compliance with Section 16 and 17 of the CGST Act.

6. Mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers - Circular No. 212/6/2024-GST

Issue:

Suppliers offering discounts through tax credit notes after supply must comply with Section 15(3)(b)(ii) of the CGST Act to exclude the discount from taxable value. This requires the recipient to reverse the corresponding Input Tax Credit (ITC). However, there is currently no portal facility for suppliers or tax officers to verify this ITC reversal.

Clarification:

Verification Mechanism:

- Suppliers may obtain a certificate from recipients issued by a Chartered Accountant (CA) or Cost Accountant (CMA) confirming ITC reversal for discounts with total tax involved not exceeding Rs 5,00,000 in a financial year.
- Certificate should detail credit notes, relevant invoice numbers, ITC reversal amounts, and documents used for ITC reversal (e.g., FORM GST DRC-03/returns).
- Certificates must include Unique Document Identification Number (UDIN) for verification.
- Suppliers can use such evidence for past periods as well, if needed.

7. Clarification on the taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company - Circular No. 213/7/2024-GST

Issue:

Representations have been received regarding the taxability under GST of Employee Stock Option (ESOP), Employee Stock Purchase Plan (ESPP), or Restricted Stock Unit (RSU) provided by an Indian subsidiary's foreign holding company directly to its employees, followed by reimbursement of costs by the Indian subsidiary. Specifically, doubts are raised on whether this constitutes an import of financial services by the Indian subsidiary and if it is liable for GST on a reverse charge basis.

Clarification:

The transaction involving the transfer of shares/securities by a foreign holding company directly to employees of an Indian subsidiary, followed by reimbursement of costs by the Indian subsidiary, does not qualify as an import of financial services under GST.

Therefore, it is not liable for GST on reverse charge basis in the hands of the Indian subsidiary company.

It is clarified that the issuance of ESOPs/ESPPs/RSUs by a foreign holding company to employees of an Indian subsidiary, with the Indian subsidiary reimbursing the cost on a cost-to-cost basis, does not constitute an import of services under GST and is not subject to GST.

However, if the foreign holding company charges any additional fee, markup, or commission for facilitating the transaction, GST will be applicable on that additional amount, payable by the Indian subsidiary on a reverse charge basis.

8. 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-. Circular No. 214/8/2024-GST.

Issue:

Representations have been received seeking clarification on whether the amount of insurance premium not included in the taxable value as per Rule 32(4) of Central Goods and Services Tax Rules, 2017 (CGST Rules) for life insurance business should be treated as pertaining to an exempt or non-taxable supply, and whether the input tax credit (ITC) availed on such an amount should be reversed.

Clarification:

The amount of insurance premium not included in the taxable value as per Rule 32(4) of the CGST Rules for life insurance business cannot be considered as pertaining to a non-taxable or exempt supply. Therefore, there is no requirement for reversal of Input Tax Credit (ITC) under Rule 42 or Rule 43 of the CGST Rules, read with Section 17(1) and (2) of the CGST Act, for such premium amounts.

9. Clarification on taxability of salvage/ wreck value earmarked in the claim assessment of the damage caused to the motor vehicle - Circular No. 215/9/2024-GST.

Issue:

Whether the insurance company is liable to pay GST on the salvage/ wreckage value earmarked in the claim assessment of the damage caused to the motor vehicle?

Clarification:

Under GST law, supply is the taxable event as defined in Section 7 of the CGST Act. Insurance companies, which insure vehicles and charge premiums, are responsible for repairs or compensation for damages under policy terms.

When an insurance company deducts the salvage value from the claim settlement, the ownership of the salvage remains with the insured, who can dispose of it independently.

This deduction is not considered as a supply by the insurance company, thus incurring no GST liability on the salvage value.

Scenario	Who will be the Owner of the Salvage/Wreck?	Whether GST Liability on Insurance Company?
Claim settled at full Insured's Declared Value (IDV)	Insurance company	Yes, at the time when Insurance Company sale the Salvage/Wreck
Salvage value deducted from the IDV	Insured or the policy holder	No

10. Clarification in respect of GST liability and input tax credit (ITC) availability in cases involving Warranty/ Extended Warranty, in furtherance to Circular No. 195/07/2023-GST dated 17.07.2023- Circular No. 216/10/2024-GST.

1. Replacement of Goods Under Warranty

Issue: Clarification required for GST liability and ITC reversal when goods are replaced under warranty.

Clarification:

The original circular (No. 195/07/2023) addressed scenarios where parts are replaced under warranty but did not explicitly cover whole goods replacement. The clarification in Para 2 of the original circular also applies to cases where entire goods are replaced.

The provisions for parts replacement under warranty also apply to the replacement of entire goods. **No additional GST is chargeable if the replacement is done without any extra consideration.**

The manufacturer does not need to reverse ITC on the replaced goods, as the warranty replacements are considered part of the original supply.

2. Distributor Replacement of Goods Under Warranty

Issue: Clarification on GST liability and ITC reversal when a distributor replaces goods from their stock on behalf of the manufacturer.

Aspect	GST Applicability (Yes/No)	Details
On Replacement by Distributor	No	The distributor does not need to charge GST to the customer for the replacement goods if no additional consideration is received. GST was already paid on original supply.
On Replenishment by Manufacturer	No	When the manufacturer replenishes the distributor's stock without charging any additional amount, no GST.
Distributor(ITC Reversal)	No	The distributor does not need to reverse ITC on the goods as the replacement is treated as part of the original supply, so ITC remains unaffected.
Manufacturer(ITC Reversal)	No	The manufacturer is not required to reverse ITC on goods provided to replenish the distributor's stock.

3. Extended Warranty Supplies

Issue: Clarification on the nature of supply for extended warranties, especially when provided by different suppliers or after the original supply of goods.

Clarification:

Aspect	Scenario	Nature of Supply	GST Treatment
Extended Warranty at Time of Original Supply	At the time of original supply of goods	Part of a composite supply (principal supply is goods,	GST is payable on the entire value of the composite supply,

		extended warranty is ancillary)	including the extended warranty.
Extended Warranty After Original Supply	Purchased separately after the original supply of goods	Distinct supply of services	GST is payable on the supply of the extended warranty service by the service provider.
Extended Warranty by Different Suppliers	At the time of original supply of goods by a different supplier	Separate supply from the original supply of goods	Extended warranty is not considered part of the composite supply of goods; GST liability on the warranty service.

11. Entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement- Circular No. 217/11/2024-GST.

Issue	Clarification
ITC on repair expenses reimbursed to policyholders in reimbursement mode	Insurance companies can claim ITC on motor vehicle repair expenses reimbursed to policyholders, as supported by Section 17(5) of the CGST Act. The insurance company, as the recipient of repair services, is entitled to credit the input tax paid.
ITC extent when invoice includes more than the approved claim cost	Two Separate Invoices: ITC is available on the invoice issued to the insurance company for the approved claim cost. Single Invoice: ITC is available only to the extent of the reimbursed approved claim cost, not on the full invoice value.
ITC availability when the repair invoice is not in the name of the insurance company	ITC is not available if the repair invoice is not in the name of the insurance company, as it does not satisfy the conditions of Section 16(2)(a) and (aa) of the CGST Act.

12. Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person- Circular No. 218/12/2024-GST

Issue	Clarification
Taxability of Loan Transactions	Providing loans by an overseas affiliate to an Indian affiliate or by a person to a related person, with consideration only as interest or discount, is not a taxable supply of service under GST.
Supply Definition and GST Applicability	- According to Section 7(1)(c) of the CGST Act and Schedule I, any supply between related persons in the course of business is deemed a supply even without consideration. However,

	loans/advances with consideration only as interest or discount are exempt from GST under Notification No. 12/2017-Central Tax (Rate).
No Additional Charges	If no additional consideration (processing fee, administrative charges, etc.) is charged apart from interest or discount, it is not considered a supply of service. Hence, there is no GST liability.
Situations with Additional Fees	If any additional fees (processing fee, administrative charges, service fee, etc.) are charged over and above the interest or discount, these are considered as consideration for supply of services and are liable to GST.

13. Clarification on availability of input tax credit on ducts and manholes used in network of optical Fiber cables (OFCs) in terms of section 17(5) of the CGST Act, 2017 - Circular No. 219/13/2024-GST

Issue:

Whether the input tax credit on the ducts and manholes used in network of optical Fiber cables (OFCs) for providing telecommunication services is barred in terms of clauses (c) and (d) of sub-section (5) of section 17 of the CGST Act, read with Explanation to section 17 of CGST Act?

Clarification:

Section 17(5) of the CGST Act disallows input tax credit (ITC) on:

- i. Works contract services for constructing immovable property (excluding plant and machinery) except where it is an input for further supply of works contract service; or
- ii. Goods or services used for constructing immovable property (excluding plant and machinery) on the taxpayer's own account, even if used in business.

The explanation in Section 17 defines "plant and machinery" as apparatus, equipment, and machinery fixed to earth used for making outward supplies, including foundations and structural supports, but excluding land, buildings, civil structures, telecommunication towers, and pipelines outside factory premises.

Ducts and manholes are essential components of the optical Fiber cable (OFC) network for telecommunication services. They are used for housing OFCs and maintaining the network and are considered "plant and machinery" as they facilitate the outward supply of telecommunication services. They do not fall under the exclusions listed in the definition.

Thus, it is clarified that **ITC is not restricted** for ducts and manholes used in OFC networks under Section 17(5) of the CGST Act.

14. Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors- Circular No. 220/14/2024-GST

Issue	Clarification
Custodial Services to FPIs as Services to 'Account Holder' under Section 13(8)(a) of the IGST Act	Custodial Services by banks/financial institutions to FPIs are not treated as services provided to 'account holder' under Section 13(8)(a) of the IGST Act.
Place of Supply Determination for Custodial Services	The place of supply for Custodial Services is determined under Section 13(2) of the IGST Act.

Section	Description
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Section 13(2)	The time of supply of services is the earliest of the following dates: (a) Date of issue of invoice (if issued within prescribed period) or date of receipt of payment, whichever is earlier; (b) Date of provision of service or date of receipt of payment, whichever is earlier; (c) Date on which the recipient shows receipt of services in their books, if (a) or (b) do not apply.
Section 13(8)(a)	The time of supply for certain services is the earlier of the following dates: (a) Date of receipt of payment; or (b) Date of issue of invoice or any other document by the supplier.

15. Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model - Circular No. 221/15/2024-GST

Issue	Clarification
Time of supply for tax payment on services under HAM model of NHAI	- Payments are specified in the contract and spread over 15-17 years.
Definition and Payment Terms	
- HAM contracts involve Design, Build, Operate, and Transfer (DBOT) services.	
Continuous Supply of Services	
- HAM contracts are considered a 'Continuous supply of services' under section 2(33) of the CGST Act.	
Time of Supply Determination	
- Invoice Issued Timely:	- the time of supply is the date of invoice issuance or receipt of payment, whichever is earlier (section 13(2)(a) CGST Act).
- Invoice Not Issued Timely:	- the time of supply is the date of provision of the service or receipt of payment, whichever is earlier (section 13(2)(b) CGST Act).
Continuous Supply Due Date	
- The due date of payment as per the contract may be deemed the date of provision of service (section 31(5) CGST Act).	
Tax Liability	
- Tax liability arises at the time of invoice issuance or payment receipt, whichever is earlier.	- If the invoice is not issued timely, tax liability arises on the due date of payment or payment receipt date, whichever is earlier.
Interest on Instalments/Annuities	
- Any interest included in instalments/annuities payable by NHAI to the concessionaire is taxable.	This is under section 15(2)(d) of the CGST Act.
Overall Tax Liability	
- Tax liability for the concessionaire under the HAM model is based on invoice issuance or payment receipt dates.	- This ensures compliance with the continuous supply of services provisions.

16. Clarification on time of supply of services of spectrum usage and other similar services under GST - Circular No. 222/16/2024-GST

Issue:

What is the time of supply for GST payment on spectrum allocation services when a telecom operator opts for instalment payments as per the Notice Inviting Application (NIA) and Frequency Assignment Letter (FAL) issued by the Department of Telecommunications (DoT), Government of India?

Clarification:

1. Time of Supply for Spectrum Allocation Services:

- The issue concerns the determination of the time of supply for GST payment in respect of spectrum allocation services, especially when the telecom operator (successful bidder) opts for deferred payment through instalments as per the Frequency Assignment Letter (FAL) issued by the Department of Telecommunications (DoT), Government of India.

2. Continuous Supply of Services:

- Definition: The allocation of spectrum by the DoT to telecom operators, with the option to pay in instalments over a specified period, is considered a "continuous supply of services" as defined under section 2(33) of the CGST Act, 2017. This is because the service (spectrum usage) is provided continuously for a period exceeding three months with periodic payment obligations.

3. Liability to Pay Tax:

- Section 13(1) of the CGST Act: The liability to pay tax on the supply of services arises at the time of supply. For continuous supply of services, the time of supply is determined as per section 13(2) of the CGST Act.

- Payment Instalments: If the payment for the spectrum is made in instalments, each instalment is considered as a separate supply for the purpose of determining the time of supply. Therefore, GST is payable on each instalment as it becomes due and payable as per the terms specified in the FAL.

4. Reverse Charge Mechanism:

- Notification No. 13/2017-Central Tax (Rate): The GST on the supply of spectrum allocation services is to be discharged on a reverse charge basis by the recipient of services (telecom operator). This implies that the telecom operator is responsible for paying the GST directly to the government.

5. Application to Other Natural Resources:

- Similar treatment regarding the time of supply applies to other cases where natural resources are allocated by the government to a successful bidder/purchaser for the right to use the resource over a period of time. This includes allocations with payment options through upfront payments or deferred periodic instalments.

MCA extends Deadline of Filing Form PAS-7

The Ministry of Corporate Affairs has extended the deadline for filing Form PAS-7 to August 05, 2024, without any late fees.

This form pertains to public companies that issued share warrants before the commencement of the Companies Act, 2013, and have not converted these warrants into shares.

The original requirement mandated that companies inform the Registrar of Companies about the details of such share warrants within three months of the commencement of the Companies Second Amendment Rules, 2023.

The MCA had deployed the PAS-7 Web-Form on the MCA-21 Portal, now allowing stakeholders to submit the necessary details without incurring additional fees until August 5, 2024.

Stakeholders are requested to file requisite details in terms of Companies Second Amendment Rules, 2023 through the Web-Form, without any late fees by utilising the extended window.



COMPLIANCE CALENDER

Direct Taxes

July 07, 2024

- Due date for deposit of Tax deducted/collected by an office of government for the month of June, 2024. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.

July 15, 2024

- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M & 194-S in the month of May 2024
- Due date for deposit of TDS for the period April 2024 to June 2024 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H
- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending June, 2024
- Quarterly statement of TCS deposited for the quarter ending June 30, 2024
- Upload the declarations received from recipients in Form No. 15G/15H during the quarter ending June, 2024
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of June, 2024

July 30, 2024

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-M, 194-IB & 194-S in the month of June 2024.
- Quarterly TCS certificate in respect of tax collected by any person for the quarter ending June 30, 2024

July 31, 2024

- Quarterly statement of TDS deposited for the quarter ending June 30, 2024
- Return of income for the assessment year 2024-25 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.

Indirect Taxes

July 10th, 2024

- Due date for filing GSTR-7 & GSTR-8.

July 11th, 2024

- Due date for filing of GSTR-1 for turnover exceeding 5Cr or opted to file monthly return (June, 2024).

July 13th, 2024

- Due date for filing of GSTR-1 who opted for quarterly filing as per QRMP scheme.
- Due date for filing of GSTR-5 & GSTR-6.

July 18, 2024

- Due date for filing of CMP-08.

July 20, 2024

- Due date for filing of GSTR-3B for turnover exceeding 5 Cr or opted to file monthly return.
- Due date for filing of GSTR-5A.

July 22, 2024 & July 24, 2024

- Due date for filing of GSTR-3B.

- 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, 2024
- Intimation in Form II by Sovereign Wealth Fund in respect of investment made in India for quarter ending June, 2024
- Intimation in Form 10BBB by a pension fund in respect of each investment made in India for quarter ending June, 2024
- 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, 2024)



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ABOUT US

Nucleus AAR Advisors LLP is an Investment Banking and Risk Advisory Firm providing specialized services in the field of Startup Advisory, M&A Advisory, International Taxation, Audit & Assurance. We partner with entrepreneurs in their critical decision making by providing them various analysis customized as per their requirement. We also help in the effective implementation of decisions and its subsequent monitoring as well.

Team Nucleus is comprised of people from Big4s and reputed consulting firms with combined experience of 30+ years. Team is distinguished by their functional and technical expertise combined with their hands-on experience, thereby ensuring that our clients receive the most professional



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