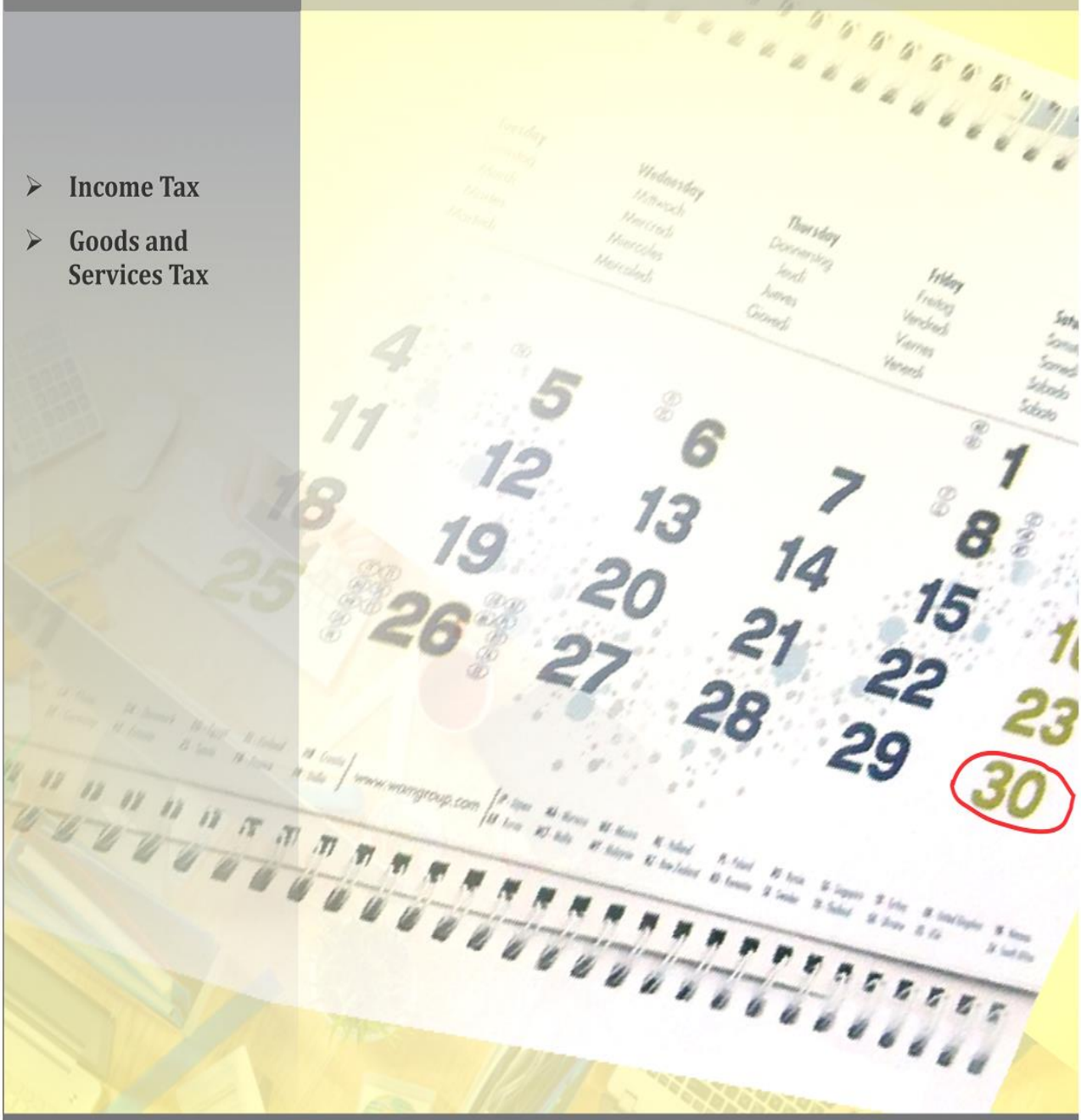
July 2023

NEWSLETTER

TAX

- Income Tax
- Goods and Services Tax



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Income Tax

1. Clarifications and Guidelines on implementation of Tax collected at Source (TCS) on Liberalised Remittance Scheme (LRS) and on Purchase of Overseas Tour Package.

CBDT
Circular No. 10/2023 dated 30.06.2023

Vide this notification, CBDT has issued clarifications on implementation of TCS on LRS and Overseas Tour packages.

Finance Act 2023 had amended section 206C of the Income Tax Act to:

A- Increase the rate of Tax Collection at Source (TCS) from 5 % to 20% for remittance under LRS as well as for purchase of overseas tour program package.
B- Remove the threshold of Rs 7 lakh for triggering TCS on LRS.

These two changes did not apply when the remittance was for education and medical purpose.

Now, following further changes/clarifications have been notified by CBDT regarding TCS applicability:

- Threshold limit of Rs. 7 Lac per financial year and per Individual for TCS applicability has been restored on all categories of LRS Payments, through all modes of payments, regardless of purpose.
- Old TCS rates & revised rates (after this Circular) are as follows :

Nature of Payment	**Earlier rate before Finance Act,2023**	**Amended rate after Finance Act,2023**
LRS for education, financed by loan from financial institution	Nil up to Rs. 7 Lac & 0.5% above Rs. 7 Lac	Nil up to Rs. 7 Lac & 0.5% above Rs. 7 Lac
LRS for Medical treatment/ education (other than financed by loan	Nil up to Rs. 7 Lac & 5% above Rs. 7 Lac	Nil up to Rs. 7 Lac & 5% above Rs. 7 Lac
LRS for other purposes	Nil up to Rs. 7 Lac & 5% above Rs. 7 Lac	Nil up to Rs 7 lakh & 20% above Rs 7 lakh
Purchase of Overseas tour program package	5% (without threshold)	5% till Rs 7 lakh & 20% thereafter

- Amended rates will be effective from 1st Oct, 2023, As per Budget Announcements, these were initially intended to be applied from 1st July 2023.
- TCS shall not be applicable on expenditure through international credit card while being overseas.
- Threshold of Rs 7 lac for LRS is combined threshold for applicability of the TCS on LRS irrespective of the purpose of remittance.
- Threshold of Rs 7 lac for LRS will be seen per remitter and not per Authorized dealers through which remittances are made.
- Threshold of Rs. 7 Lac where reduced TCS rate of 5 % is applicable on purchase of Foreign Tour Package is independent of threshold of Rs. 7 Lac given under LRS.

Circular No.10

2. Clarification regarding taxability of income earned by a non-resident investor from off-shore investments in investment fund routed through an Alternative Investment Fund

CBDT
Circular No. 12/2023 dated 12.07.2023

Vide this Circular, CBDT has amended the definition of Investment Fund to include reference to International Financial Services Centres Authority (Fund Management) Regulations. 2022 under International Financial Services Centres Authority (IFSCA) Act. 2019 in line with amendments by Finance Act, 2023.

This circular has been necessitated since the taxability of income earned by Non Resident will be changed because of change in the definition of Investment fund.
Circular No. 12

3. Condonation of delay under section 119(2)b of the Income tax Act for returns of income claiming deduction under section 80P for various Assessment years from A Y 2018-19 to AY 2022-23

CBDT
Circular No. 13/2023 dated 26.07.2023

Vide this circular, CBDT has prescribed that Chief Commissioner of Income Tax and Director General of Income Tax are authorized to condone the delay in Income Tax Return filing by Co-operative Societies claiming deduction from Income under section 80AC of the Income Tax Act.

- Section 80P of the Income Tax Act provides for deduction in respect of income of co-operative societies under Chapter V1A-Part-C of The Income Tax Act.
- As per Section 80AC of The Income Tax Act, Income Tax Return should be filed on or before the due date for claiming deduction under section 80P.
- CBDT has received number of applications from Co-operative societies for condonation of delay stating that delay in furnishing return of income was caused due to delay in getting the accounts audited under respective State Laws.
- Now, CBDT has prescribed that Chief Commissioner of Income Tax and Director General of Income Tax are authorized to condone the delay in filing of Income Tax Return.
- Factors to be considered by Chief Commissioner of Income Tax and Director General of Income Tax for deciding condonation application also forms part of the Notification.

Circular No.13

4. Income-tax (Twelvth Amendment) Rules, 2023

CBDT
Notification No. 50/2023 dated 17.07.2023

Vide this notification, CBDT has amended Rule 21AK, Rule 114AAB and prescribed New Form 10CCF.

- **Rule 21AK**- It prescribes certain Incomes accrued/received by Non Residents and conditions for claiming exemptions from such incomes. Now, by way of this amendment, Income Accrued or received by a non-Residents as a result of distribution of income on Offshore derivative instruments is also included in exempted Income covered by rule 21AK.

- **Rule 114AAB**– It prescribes persons and class of persons who are not required to obtain Permanent Account Number (PAN) even if their Incomes exceed basic exemption Limits.
  It provides that PAN is not mandatory for a non-resident, not being a company, or a foreign company, who has, during a previous year, made investment in a **specified fund** subject to fulfillment of the conditions prescribed.

  Now, by way of this notification ,CBDT has notified the definition of specified fund as below:

  Specified fund means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019) and which is located in any International Financial Services Centre or a specified fund referred to in sub-clause (i) of clause (c) of Explanation to clause (4D) of section 10;". 3. In the principal rules, in APPENDIX II.

- **Form 10 CCF**- New Form 10CCF is substituted in Place of Old Form 10CCF. Form 10CCF is filed by Offshore Banking Units situated in Special Economic Zone and International Financial Service Center for claiming exemption from Income under section 80 LA(3) of The Income Tax Act.

Notification No. 50

5. Income-tax (Thirteenth Amendment) Rules, 2023

CBDT

Notification No. 51/2023 dated 18.07.2023

Vide this notification, CBDT has inserted new sub-rule in rule 11UAC. This sub-rule is applicable to movable property, such as shares or units, received by the **fund management entity** of the **resultant fund** during **relocation**

The sub-rule lays out specific conditions that must be met for this transfer to take place:

A. Not less than ninety percent of shares or units or interest in the fund management entity of the resultant fund must be held by the same entity(ies) or person(s) in the same proportion as was held by them in the investment manager entity of the **original fund**.
B. Not less than ninety per cent of the aggregate of shares or units or interest in the investment manager entity of the original fund should have been held by such entity(ies) or Person(s).

"Fund management entity" has the same meaning as provided in the sub-clause (p) of regulation 2 of the International Financial Services Centres.

"Relocation," "original fund," and **"resultant fund"** have meanings as assigned to them in the Explanation to clause (viiac) and clause (viiad) of section 47 of the Income-tax Act

Notification No. 51

GST

1. Revocation of Cancellation of GST Registration

CBIC
Notification No. 23/2023 dated 17th July, 2023

Vide the Principal Notification 03/2023 dated 31st March 2023, CBIC has allowed businesses, whose GST registrations were cancelled for non-filing of returns, to apply for revocation of the cancellation of registration by 30th June 2023, after paying due taxes, interest and penalty.

This was intended for taxpayers whose registration has been cancelled on or before December 31, 2022, and who have failed to apply for revocation of cancellation within the specified period and could do so by 30th June, 2023.

Now, vide this notification, the Period to apply for revocation of cancellation of registration is extended from **30th June, 2023 to 31st August , 2023**.

This notification shall be deemed to have come into force with effect from 30th June, 2023.

Notification No. 23/2023

2. Amnesty scheme for deemed withdrawal of assessment orders issued under Section 62 of the CGST Act

CBIC
Notification No. 24/2023 dated 17th July, 2023

Vide the Principal Notification 06/2023 dated 31st March 2023, CBIC has withdrawn assessment orders issued on or before 28th Feb, 2023 under section 62 of the CGST Act (Assessment of Non-filers of GST returns) if the Taxpayer follow the below prescribed procedure.

(i) The registered persons shall furnish the said return on or before the 30th June 2023.
(ii) The return shall be accompanied by payment of interest and the late fee payable.

Now, vide this notification, CBIC has extended the time period to furnish the said returns from **30th June 2023 to 31st August 2023**.

This notification shall be deemed to have come into force with effect from 30th June, 2023.

Notification No. 24/2023

3. Rationalization of late fee for GSTR-9 and Amnesty to GSTR-9 non-filers.

CBIC
Notification No. 25/2023 dated 17th July, 2023

Vide the Principal Notification 07/2023 dated 31st March 2023, CBIC has reduced and rationalized the late fees in case of GSTR-9 (Annual Return) to the extent below.

For F.Y. 2022-23,

Class of Registered Persons	Amount of Late Fees
Turnover <=5 Crore in the relevant FY	Rs. 50 per day subject to maximum of 0.04% of turnover.
Turnover 5 crore <=20 Crore in the relevant FY	Rs. 100 per day subject to maximum of 0.04% of turnover.
Turnover>20crore	No reduction in the Late Fee (Rs. 200 per day)

For F.Y 2017-18 to F.Y. 21-22,
Registered Persons can file GSTR-9 only by paying Late fee of Rs. 20,000 irrespective of turnover, provided that GSTR-9 is furnished by them from 1st April 2023 to 30th June 2023.
Now vide this notification, CBIC has extended the time period to furnish GSTR-9 from **30th June 2023 to 31st August 2023** for F.Y 2017-18 to F.Y. 21-22.

Notification No. 25

4. Amnesty to GSTR-10 non-filers.

CBIC
Notification No. 26/2023 dated 17th July, 2023

Vide the Principal Notification 08/2023 dated 31st March 2023, CBIC has waived off late fees in excess of Rs. 1,000 in filing of Form GSTR 10 i.e. Final return for taxpayers applying for cancellation of registration.

However, waiver was applicable only in respect of GSTR 10 whose due date has been passed, is filed between 1st April 2023 to 30th June 2023.

Now, vide this notification, waiver is also provided in respect of GSTR 10 whose due date has been passed is filed up to **31st August 2023 (changed from earlier cutoff date of 30th June 2023).**

This notification shall be deemed to have come into force with effect from 30th June, 2023

Notification No. 26/2023

5. Clarification on charging of interest under section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof.

CBIC
Circular No. 192/04/2023 dated 17th July, 2023

Vide this circular, CBIC has provided following clarifications related to charging of interest under section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof :

S. No.	Issues	Clarifications
1	In the case of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B of CGST Rules, whether the balance of input tax credit available in electronic credit ledger under the head of IGST only needs to be considered or total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.	Input Tax Credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered for the purpose of calculation of interest under rule 88B of CGST Rules in case of wrong availment of IGST.
2	Whether the credit of compensation cess available in electronic credit ledger shall be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under sub-rule (3) of rule 88B of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit	Credit in respect of compensation cess on supply of goods and services leviable under section 8 of the said Act can be utilized only towards payment of compensation cess leviable on supply of goods and services. Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads. Accordingly, credit of compensation cess available in electronic credit ledger cannot be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under sub rule (3) of rule 88B of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit

Circular No. 192

6. Clarification on availability of Input tax credit (ITC) in respect of warranty replacement of parts and repair services during warranty period.

CBIC

Circular No. 195/07/2023 dated 17th July, 2023

Representations have been received by CBIC from trade and industry that as a common trade practice, the original equipment manufacturers /suppliers offer warranty for the goods / services supplied by them. During the warranty period, replacement goods /services are supplied to customers free of charge and as such no separate consideration is charged and received at the time of replacement.

Now, CBIC has issued following clarifications related to the matter:

S. No.	Issues	Clarifications
1	There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services. Whether GST would be payable on such replacement of parts or supply of repair services, without any consideration from the customer, as part of warranty?	The value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and / or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods. As such, where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, no further GST is chargeable on such replacement of parts and/ or repair service during warranty period. However, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.
2	Whether in such cases, the manufacturer is required to reverse the input tax credit in respect of such replacement of parts or supply of repair services as part of warranty, in respect of which no additional consideration is charged from the customer?	In such cases, the value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and/ or repair services to be incurred during the warranty period. Therefore, these supplies cannot be considered as exempt supply and accordingly, the manufacturer, who provides replacement of parts and/ or repair services to the customer during the warranty period, is not required to reverse the input tax credit in respect of the said replacement parts or on the repair services provided.
3	Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?	There may be instances where a distributor of a company provides replacement of parts and/ or repair services to the customer as part of warranty on behalf of the manufacturer and no separate consideration is charged by such distributor in respect of the said replacement and/ or repair services from the customer. In such cases, as no consideration is being charged by the distributor from the customer, no GST would be payable by the distributor on the said activity of providing replacement of parts and/ or repair services to the customer. However, if any additional consideration is charged by the distributor from the customer, either for replacement of any

		part or for any service, then GST will be payable on such supply with respect to such additional consideration.
4	In the above scenario where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer and whether the distributor would be required to reverse the input tax credit in respect of such replacement of parts?	(a) There may be cases where the distributor replaces the part(s) to the customer under warranty either by using his stock or by purchasing from a third party and charges the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice, for the said supply made by him to the manufacturer. In such a case, GST would be payable by the distributor on the said supply by him to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of CGST Act. In such case, no reversal of input tax credit by the distributor is required in respect of the same. (b) There may be cases where the distributor raises a requisition to the manufacturer for the part(s) to be replaced by him under warranty and the manufacturer then provides the said part(s) to the distributor for the purpose of such replacement to the customer as part of warranty. In such a case, where the manufacturer is providing such part(s) to the distributor for replacement to the customer during the warranty period, without separately charging any consideration at the time of such replacement, no GST is payable on such replacement of parts by the manufacturer. Further, no reversal of ITC is required to be made by the manufacturer in respect of the parts so replaced by the distributor under warranty. (c) There may be cases where the distributor replaces the part(s) to the customer under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced subject to provisions of sub-section (2) of section 34 of the CGST Act. Accordingly, the tax liability may be adjusted by the manufacturer, subject to the condition that the said distributor has reversed the ITC availed against the parts so replaced
5	Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?	In such scenario, there is a supply of service by the distributor and the manufacturer is the recipient of such supply of repair services in accordance with the provisions of sub-clause (a) of clause (93) to section 2 of the CGST Act, 2017. Hence, GST would be payable on such provision of service by the distributor to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of CGST Act.
6	Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?	(a) If a customer enters in to an agreement of extended warranty with the manufacturer at the time of original supply, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly.

		(b) However, in case where a consumer enters into an agreement of extended warranty at any time after the original supply, then the same is a separate contract and GST would be payable by the service provider, whether manufacturer or the distributor or any third party, depending on the nature of the contract (i.e. whether the extended warranty is only for goods or for services or for composite supply involving goods and services)

Circular No. 195

7. Clarification on taxability of shares held in a subsidiary company by the holding company.

CBIC
Circular No. 196/08/2023 dated 17th July, 2023

Vide this Circular, CBIC has given clarification whether holding of shares in a subsidiary company by the holding company will be treated as 'supply of service' under GST and will be taxed accordingly or whether such transaction is not a supply.

It is clarified that Securities are considered neither goods nor services in terms of definition of goods under clause (52) of section 2 of CGST Act and the definition of services under clause (102) of the said section. Further, securities include 'shares' as per definition of securities under clause (h) of section 2 of Securities Contracts (Regulation) Act, 1956.

This implies that the securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services

Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

Circular No. 196.

8. Clarification on Refund related issues.

CBIC
Circular No. 197/09/2023 dated 17th July, 2023

Vide this Circular, CBIC has given clarification regarding few refund related issues as mentioned below:

Issue 1- Refund of accumulated input tax credit under Section 54(3) on the basis of that available as per FORM GSTR 2B or Form GSTR 2A.

Clarification- As per Para 5 of Circular No. 135/05/2020-GST dated 31.03.2020, refund of accumulated input tax credit (ITC) is restricted to the input tax credit as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant.

However, w.e.f 1st Jan, 2022 availment of input tax credit has been linked with FORM GSTR-2B. Hence, availability of refund of the accumulated input tax credit under section 54(3) of CGST Act for a tax period shall be restricted to input tax credit as per those invoices, the details of which are reflected in **FORM GSTR-2B** of the applicant for the said tax period or for any of the previous tax periods and on which the input tax credit is available to the applicant,

Issue 2- Admissibility of refund claim where an exporter applies for refund subsequent to compliance of the provisions of sub-rule (1) of rule 96A.There are instances where exporters have voluntarily made payment of due

integrated tax, along with applicable interest, in cases where goods could not be exported or payment for export of services could not be received within time frame as prescribed in clause (a) or (b), as the case may be, of sub-rule (1) of rule 96A of CGST Rules. Clarification is being sought as to whether subsequent to export of the said goods or as the case may be, realization of payment in case of export of services, the said exporters are entitled to claim not only refund of unutilized input tax credit on account of export but also refund of the integrated tax and interest so paid in compliance of the provisions of sub-rule (1) of rule 96A.of CGST Rules.

Clarification- It is clarified that it in such cases, on actual export of the goods or as the case may be, on realization of payment in case of export of services, the said exporters would be entitled to refund of unutilized input tax credit in terms of sub-section (3) of section 54 of the CGST Act and is also entitled to claim refund of the integrated tax so paid earlier on account of goods not being exported, or as the case be, the payment not being realized for export of services, within the time frame prescribed in clause (a) or (b), as the case may be, of sub-rule (1) of rule 96A. However, no refund of the interest paid in compliance of sub-rule (1) of rule 96A shall be admissible.

Circular No. 197

9. Clarification on issue pertaining to e-invoice.

CBIC
Circular No. 198/10/2023 dated 17th July, 2023

Vide this circular, CBIC has issued clarification related to e-invoice applicability w.r.t supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/ Government agencies/ local authorities/ PSUs registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act.

It is clarified that Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct tax at source as per provisions of section 51 of the CGST/SGST Act, are liable for compulsory registration in accordance with section 24(vi) of the CGST Act. Therefore, Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act, are to be treated as registered persons under the GST law as per provisions of clause (94) of section 2 of CGST Act.

Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is **required** to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc under rule 48(4) of CGST Rules.

Circular No. 198

10. Clarification regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons.

CBIC
Circular No. 199/11/2023 dated 17th July, 2023

Vide this circular, CBIC has issued clarification on the taxability of activities performed by an office of an organisation in one State to the office of that organisation in another State, which are regarded as distinct persons under section 25 of CGST Act 2017.

For the purpose of this clarification, A business entity which has Head Office (HO) located in State-1 and a branch offices (BOs) located in other States has been considered. The HO procures certain input services e.g. security service for the entire organisation from a security agency (third party). HO also provides other services on their own to branch offices (internally generated services).

Clarifications are provided in the table below:

S. No.	Issues	Clarifications
1	Whether HO can avail the input tax credit (ITC) in respect of common input services procured from a third party but attributable to both HO and BOs or exclusively to one or more BOs, issue tax invoices under section 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow the Input Service Distributor (hereinafter referred to as 'ISD') mechanism for distribution of ITC in respect of common input services procured by them from a third party but attributable to both HO and BOs or exclusively to one or more BOs.	It is clarified that in respect of common input services procured by the HO from a third party but attributable to both HO and BOs or exclusively to one or more BOs, HO has an option to distribute ITC in respect of such common input services by following ISD mechanism laid down in Section 20 of CGST Act read with rule 39 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules'). However, as per the present provisions of the CGST Act and CGST Rules, it is not mandatory for the HO to distribute such input tax credit by ISD mechanism. HO can also issue tax invoices under section 31 of CGST Act to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs and the BOs can then avail ITC on the same subject to the provisions of section 16 and 17 of CGST Act. In case, the HO distributes or wishes to distribute ITC to BOs in respect of such common input services through the ISD mechanism as per the provisions of section 20 of CGST Act read with rule 39 of the CGST Rules, HO is required to get itself registered mandatorily as an ISD in accordance with Section 24(viii) of the CGST Act. Further, such distribution of the ITC in respect a common input services procured from a third party can be made by the HO to a BO through ISD mechanism only if the said input services are attributable to the said BO or have actually been provided to the said BO. Similarly, the HO can issue tax invoices under section 31 of CGST Act to the concerned BOs, in respect of any input services, procured by HO from a third party for on or behalf of a BO, only if the said services have actually been provided to the concerned BOs.
2	In respect of internally generated services, there may be cases where HO is providing certain services to the BOs for which full input tax credit is available to the concerned BOs. However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs. Whether the HO is mandatorily required to issue invoice to BOs under section 31 of CGST Act for such internally generated	The value of supply of services made by a registered person to a distinct person needs to be determined as per rule 28 of CGST Rules, read with sub-section (4) of section 15 of CGST Act. As per clause (a) of rule 28, the value of supply of goods or services or both between distinct persons shall be the open market value of such supply. The second proviso to rule 28 of CGST Rules provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Accordingly, in respect of supply of services by HO to BOs, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, if the recipient BO is eligible for full input tax

	services, and/ or whether the cost of all components including salary cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs when full input tax credit is available to the concerned BOs.	credit. Accordingly, in cases where full input tax credit is available to a BO, the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice. Further, in such cases where full input tax credit is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules.
3	In respect of internally generated services provided by the HO to BOs, in cases where full input tax credit is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs.	In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases where full input tax credit is not available to the concerned BO.

Circular No. 199

Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month.
Instead, it is only a listing of some of the circulars/notifications that we considered important

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