

# GST Trail

## Key Highlights of GST Notifications and Clarification Circulars

October 2023



## Notification Updates

### Notification 52/2023 – Central Tax – dated 26 October 2023

The Central Board of Indirect Taxes and Customs (CBIC) has amended the CGST Rules, 2017. The key amendments include the addition of Rule 28(2), which specifies the value of supply of services between related persons by way of providing a corporate guarantee to any banking company or financial institution as 1% of the amount of such guarantee offered, or the actual consideration, whichever is higher. Further amendments are made in Forms GST REG-01, GST REG-08, GSTR-8, GST PCT-01 and GST DRC-22.

### Notifications 12/2023 – Central Tax (Rate) and 15/2023 – Integrated Tax (Rate) – dated 19 October 2023 effective from 20 October 2023

The CBIC has amended Notifications 11/2017 – Central Tax (Rate) and 8/2017 – Integrated Tax (Rate) – dated 28 June 2017. Besides some other amendments, an additional condition is specified for charging 2.5% CGST/5% IGST for Intra-state/Inter-state supply by way of transport of passengers by or renting of motorcab where the cost of fuel is included in the consideration charged. It also states that where the supplier of input service in the same line of business charges CGST/IGST at a rate higher than prescribed, credit of input tax in excess of the tax payable at the prescribed rate shall not be taken.

### Notifications 13/2023 – Central Tax (Rate) – dated 19 October 2023 and 16/2023 – Integrated Tax (Rate) – dated 20 October 2023 effective from 20 October 2023

The CBIC has amended Notifications 12/2017 – Central Tax (Rate) and 9/2017 – Integrated Tax (Rate) – dated 28 June 2017 to grant CGST and IGST exemption to Services provided to a Governmental Authority by way of:

- a) water supply;
- b) public health;
- c) sanitation conservancy;
- d) solid waste management; and
- e) slum improvement and upgradation.

Furthermore, the Ministry of Railways (Indian Railways) has been specifically excluded from CGST and IGST exemption under Serial Nos. 6 to 9.

### Notifications 14/2023 – Central Tax (Rate) and 17/2023 – Integrated Tax (Rate) – dated 19 October 2023 effective from 20 October 2023

The CBIC has amended Notifications 13/2017 – Central Tax (Rate) and 10/2017 – Integrated Tax (Rate) – dated 28 June 2017 to specify that services provided by the Ministry of Railways (Indian Railways) shall be taxed under Forward Charge Mechanism.

### Notifications 15/2023 – Central Tax (Rate) and 18/2023 – Integrated Tax (Rate) – dated 19 October 2023 effective from 20 October 2023

The CBIC has amended Notifications 15/2017 – Central Tax (Rate) and 12/2017 – Integrated Tax (Rate) – dated 28 June 2017 to specify that refund of unutilized input tax credit (ITC) shall not be allowed in case of supply of construction services 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.

### Notifications 16/2023 – Central Tax (Rate) and 19/2023 – Integrated Tax (Rate) – dated 19 October 2023 effective from 20 October 2023

The CBIC has amended Notifications 17/2017 – Central Tax (Rate) and 14/2017 – Integrated Tax (Rate) – dated 28 June 2017 to specify that the tax on supply of services by way of transportation of passengers by an omnibus where the person supplying such service through electronic commerce operator is a company, shall be paid by said company. In case the person who supplies such service is not a company, then it shall be paid by the electronic commerce operator.

### Notifications 17/2023 – Central Tax (Rate) and 20/2023 – Integrated Tax (Rate) – dated 19 October 2023 effective from 20 October 2023

The CBIC has amended Notifications 1/2017 – Central Tax (Rate) and 1/2017 – Integrated Tax (Rate) – dated 28 June 2017 to specify tax rates for the following goods:

Sr. No.	Goods	Chapter / Heading / Sub-heading / Tariff item	CGST Rate		IGST Rate	
			Old	New	Old	New
1	Molasses	1703	14%	2.5%	28%	5%
2	Food preparation of millet flour, in powder form, containing at least 70% millets by weight, pre-packaged and labeled	1901	9%	2.5%	18%	5%
3	Spirits for industrial use	2207 10 12	-	9%	-	18%

### Notifications 18/2023 – Central Tax (Rate) and 21/2023 – Integrated Tax (Rate) – dated 19 October 2023 effective from 20 October 2023

The CBIC has amended Notifications 2/2017 – Central Tax (Rate) and 2/2017 – Integrated Tax (Rate) – dated 28 June 2017 to grant CGST and IGST exemption to supply of food preparation of millet flour, in powder form, containing at least 70% millets by weight, other than pre-packaged and labeled.

### Notifications 19/2023 – Central Tax (Rate) and 22/2023 – Integrated Tax (Rate) – dated 19 October 2023 effective from 20 October 2023

The CBIC has amended Notifications 4/2017 – Central Tax (Rate) and 4/2017 – Integrated Tax (Rate) – dated 28 June 2017 to specify that the tax on used vehicles, seized and confiscated goods, old and used goods, waste and scrap shall be paid on forward charge basis where the supplier is the Ministry of Railways (Indian Railways).

### Notifications 20/2023 – Central Tax (Rate) and 23/2023 – Integrated Tax (Rate) – dated 19 October 2023 effective from 20 October 2023

The CBIC has amended Notifications 5/2017 – Central Tax (Rate) and 5/2017 – Integrated Tax (Rate) – dated 28 June 2017 to specify that no refund of unutilized ITC shall be allowed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies for imitation zari thread or yarn made out of Metallised polyester film/plastic film. It is to be noted that said restriction only applies to ITC on polyester film/plastic film.

### Notification 05/2023 – Integrated Tax – dated 26 October 2023

The CBIC has amended Notification 01/2023 – Integrated Tax – dated 31 July 2023 to allow IGST refund for supply of specified goods and services to developers or Special Economic Zone (SEZ) units undertaking authorized operations.

### Notification 60/2023 – Customs – dated 19 October 2023

The CBIC has amended Notification 50/2017 – Customs – dated 30 June 2017 to grant IGST exemption to Foreign Going Vessels converted for a coastal run subject to subject to re-conversion to a foreign going vessel within six months.



## Circular Updates

### Circular No. [202/14/2023-GST](#) – dated 27 October 2023

The CBIC has clarified that when the Indian exporters undertaking the 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 Section 2(6)(iv)\* 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 under any other law.

\*Section 2(6)(iv) requires payment for export of service to be received in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India.

### Circular No. [203/15/2023-GST](#) – dated 27 October 2023

The CBIC has clarified the place of supply in the following cases:

1. Supply of service of transportation of goods, including through mail and courier
  - a) where the location of the recipient of services is available, the place of supply of such services shall be the location of the recipient of services;
  - b) where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

2. Supply of services in respect of advertising sector:
  - a) the place of supply of service provided by way of supply of sale of space on hoarding/structure for advertising or for grant of rights to use the hoarding/structure for advertising in this case would be the location where such hoarding/ structure is located, i.e., Section 12(3)(a) of IGST Act;
  - b) where the vendor is responsible for the display of the advertisement of the advertisement company at the said location, the place of supply shall be determined in terms of Section 12(2) of the IGST Act.
3. Supply of the “co-location services”:
  - a) a business that avails the co-location services, including security, upkeep of its server/s, storage and network hardware; operating systems, system software and may require to interact with the system through a web-based interface for the hosting of its websites or other applications and operation of the servers, the same shall be determined by the default place of supply provision under Section 12(2) of the IGST Act, i.e., location of the recipient of co-location service.
  - b) where it is restricted to providing physical space on rent along with basic infrastructure, the place of supply of these services shall be determined by the provisions of Section 12(3)(a) of the IGST Act, i.e., the location where the immovable property is located.



### **Circular No. 204/16/2023-GST – dated 27 October 2023**

The CBIC has issued clarification regarding the taxability of the following:

1. A personal guarantee provided by the Director of a company to a bank/financial institution for sanctioning of credit facilities to said company with/without any consideration.
  - a) in case no consideration is paid, then there is no applicability of GST;
  - b) in case consideration is paid to the Director, then GST shall be applicable on the amount of consideration paid.
2. Corporate guarantee provided by a person on behalf of another related person or by a holding company for sanction of credit facilities to its subsidiary company to a bank/financial institution with/without any consideration, the same shall be determined as per Rule 28(2) of CGST Rules, 2017.

### **Circular No. 205/17/2023-GST – dated 31 October 2023**

The CBIC has clarified that metal-coated plastic film converted to metalized yarn and twisted with nylon, cotton, polyester, or any other yarn to make imitation zari thread falling under HS 5605 will be covered SI No. 218AA of Schedule I attracting 5% GST. It has also been clarified that no refund will be permitted on polyester film (metalized)/plastic film on account of inversion of tax rate and accordingly, changes have been made in Notification no 20/223-Central Tax (Rate) dated 19 October 2023.

### **Circular No. 206/18/2023-GST – dated 31 October 2023**

The CBIC has provided clarity on the following issues:

1. The same line of business in the case of passenger transport service and renting of motor vehicles does not include leasing of motor vehicles without operators.
2. Applicability of GST on reimbursement of electricity charges received by real estate companies, malls, airport operators, etc., from their lessees/occupants:
  - a) where 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;
  - b) where the electricity is supplied by the Real Estate Owners, Resident Welfare Associations (RWAs), Real Estate Developers, etc., on cost to cost basis, it will not form part of the value of supply as it will be deemed that they are acting as pure agent for this supply.

3. Job work services in relation to the 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.
4. District Mineral Foundations Trusts (DMFTs) set up by the State Governments are Governmental Authorities and thus eligible for the same GST exemptions as any other Governmental Authority.
5. 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 the Central Public Works Department (CPWD) are eligible for exemption from GST under Sr. No. 3 and 3A of Notification no 12/2017-CTR dated 28 June 2017.

## Technical Updates

### E-Invoice JSON download functionality Live on the GST e-Invoice Portal

The Goods and Services Tax Network (GSTN) has announced that the e-Invoice JSON download functionality is live on the GST Portal w.e.f. 3 October 2023. The advisory highlights some key steps to download the generated and received e-Invoices in JSON format. Furthermore, a comprehensive manual and FAQ document is linked [here](#).

### Facility for the e-commerce operators (ECOs) through whom unregistered suppliers of goods can supply goods

The GSTN has provided API for ECOs to integrate with GSTN to obtain the details and facilitate the unregistered suppliers. APIs are for validating the demographic details of the said suppliers and for use in tracking and reporting supplies by such persons. The advisory further described the two types of APIs, i.e., Unregistered Applicants API and Unregistered Applicants Validation API and also outlined the steps to access and integrate the APIs successfully.

### Facility of enrolment for supply of goods through e-commerce operators by GST un-registered suppliers

The GSTN has developed the necessary functionality for enrolment of such unregistered persons and the same is available on the portal. The advisory spells out the path/procedure of enrolling on the GST portal for making supplies of goods through ECOs in any one State/UT.

### Person supplying of Online Money Gaming services or OIDAR or Both-Form GST REG-10 and Form GSTR-5A

In the context of recent amendments made in the CGST/SGST Act, the IGST Act and the CGST/SGST Rules, any person located outside a taxable territory making the supply of online money gaming to a person in a taxable territory, is liable to get registered in GST and is required to pay tax on such supply. Accordingly, GSTN has announced that it is in the process of developing the functionality of such new registrations or required amendments in existing registrations, as the case may be. In the meantime, the advisory prescribes a workaround to be followed in Forms GST REG-10 and GSTR-5A. A format for uploading additional information with other documents in GST REG-10 is also provided.

### Advisory related to changes in GSTR-5A

Notification 51/2023 – Central Tax – dated 29 September 2023 has introduced Table 5B in GSTR-5A w.e.f. 1 October 2023. Table 5B has been introduced to report supplies made to Registered GSTINs (B2B supplies). This would be implemented shortly at GSTN and till such time, suppliers of Online Information Database Access and Retrieval services (OIDAR) are advised to file the return in the existing GSTR-5A itself.





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