



Greetings to all our readers! We wish that we find you in good health & spirits.

On 22nd June 2024, the GST Council announced several key recommendations in their press release. To clarify some of these recommendations, Circulars were issued on 26th June 2024, and we covered a summary of these Circulars in our July 2024 newsletter.

Further changes were announced through multiple Notifications released late on 10th July 2024. We have summarized the gist of these notifications to help our readers take the necessary actions. The effective date of implementation of most of these changes shall be notified with a future date, unless specifically mentioned.

## **I. Stricter rules for new taxpayers not opting for Aadhaar authentication**

*(Para 2 of Notification No. 12/2024 - Central Tax)*

- For new applicants seeking fresh GST registration who do not opt for Aadhaar-based Authentication, it is now mandatory to visit one of the Facilitation Centres designated by the Commissioner. At the center, a photograph of the applicant (for individuals) or the relevant individuals associated with the applicant (for non-individual applicants) will be taken. Additionally, the original documents uploaded with the application will be verified.
- The application for such cases will be considered complete only after successful verification under this new mechanism.

## **II. New condition for cancellation of GST Registration.**

*(Para 3 of Notification No. 12/2024 - Central Tax)*

- Rule 21 of the CGST Rules provides for various instances under which registration may be liable to be cancelled.
- The rule is now set to be amended to add more conditions to this list of reasons for cancellation of GST registration viz., NOT filing of all returns in the interim period of cancellation of registration till the date of the order of revocation of cancellation of registration within a period of thirty days.
- If all pending returns are not filed within 30 days of revocation, the Department can again initiate the process for cancellation of GST registration.

## **III. Corporate Guarantee:**

*(Para 5 of Notification No. 12/2024 - Central Tax effective from 26.10.2023)*

- W.e.f. 26.10.2023, a new sub-rule (2) was added to Rule 28 of the CGST to provide for the valuation of supply of corporate guarantees. The said sub-rule had some gaps which are now proposed to be amended retrospectively.
- The said valuation rules will now be triggered only when the recipient (for whom corporate guarantee is given to any banking company or financial institution) is located in India and the computation of shall be done annually.



- The said rule will not be triggered in cases where the Indian entity provides for a corporate guarantee for their counterpart outside India, thus eliminating the scope of treating the same as export of services.
- Further, the valuation adopted by the related supplier of corporate guarantee shall not be questioned if the recipient is eligible for full ITC.

#### **IV. Input Service Distributor and process for distribution of credit**

*(Para 8 of Notification No. 12/2024 - Central Tax)*

- The earlier Rule 39(1) is entirely substituted by a new rule which is being introduced in the present notification.
- The ITC available to an ISD in a particular month shall be distributed in the same month by the ISD (i.e., no balance credit lying with the ISD in any month) in Form GSTR 6.
- In case a particular credit is attributable to a particular recipient only, then ISD will distribute the same only to that specific recipient only.
- In case where the credit is attributable to more than one recipient, then the same shall be distributed on *pro rata* basis to those specific recipients only considering the recipients turnover in that State/ UT.
- In case where the credit is attributable to all the recipients, then the same shall be distributed on *pro rata* basis to all the recipients considering the recipients' turnover in that State/ UT
- The credit to be distributed to unregistered recipients (e.g., recipients making exempt supply only) shall also be computed.
- Ineligible ITC shall be distributed in the same manner as eligible ITC, but separately.
- IGST ITC shall be distributed as IGST only. Further, CGST and SGST/ UTGST shall be distributed as CGST and SGST/UTGST only if the recipient is located in the same state as the ISD. In other cases, the same shall be distributed as IGST.
- The ISD shall issue an Input Service Distributor invoice which will specify that such invoice is issued only for distribution of input tax credit.
- The above process shall apply to issuance of debit note and credit notes as well. Further, in the case of a credit note, the same proportion should be applied for the reduction of credit as applied in the case of the original invoice against which such credit note is proposed to be issued. In case the reduction amount by way of issuance of a credit note is less than the ITC distributed in that month, the negative amount shall be added to the output tax liability of the recipient.
- Further Rule (1A) shall be introduced wherein, the above highlighted process shall apply to the ITC available on account of payment of tax under RCM by the ISD.
- Further, an explanation has been added to Rule 39 to help ISD compute “turnover” of the recipients for distribution of ITC.



## **V. Changes to return filing process (GSTR 1 - GSTR 2B - GSTR 3B)**

*(Para 11, 12 of Notification No. 12/2024 - Central Tax)*

- Assessee will now have the option to file Form GSTR 1A (new form) after filing Form GSTR 1 but before filing Form GSTR 3B of that month to amend or furnish additional details of outward supplies.
- Such amendments which are uploaded in Form GSTR 1A after due date of filing of Form GSTR 1, but before the due date of Form GSTR 1 of the next month, shall be reflected in the next GSTR 2B cycle of the recipient.
- The reporting limit of B2C Large inter-state cases has been revised downwards from Rs. 2.5 lakhs to Rs. 1 lakh. Hence, line-level details of B2C inter-state transactions should be reported in Table 5 of Form GSTR-1 if the invoice value is greater than Rs. 1 lakh. In all other cases, the same shall be aggregated and reported with B2CS, as done presently as well. *(This particular disclosure change is applicable from 1<sup>st</sup> August 2024)*

## **VI. New due date for Form GSTR-4 from FY 2024-25.**

*(Para 13 of Notification No. 12/2024 - Central Tax)*

- W.e.f. FY 2024-25, the due for filing of Form GSTR-4 (applicable to composition taxpayer) is permanently shifted from 30<sup>th</sup> April to 30<sup>th</sup> June following the end of the relevant financial year.

## **VII. Relaxation from payment of Interest in case cash balance is available in ECL**

*(Para 15 of Notification No. 12/2024 - Central Tax)*

- Rule 88B of the CGST Rule is amended whereby, interest will be computed for delayed filing of Form GSTR 3B only to the extent of the balance is not available in electronic cash ledger as on the due date of filing of the said return.
- Hence, if there is sufficient cash balance available in the electronic cash ledger as on the due date of filing of Form GSTR 3B and the return is filed after the due date using the available balance, then interest shall not be payable at all.

## **VIII. Refund of tax in the case there is an upward revision in the value of exports (goods).**

*(Para 17 and 19 of Notification No. 12/2024 - Central Tax)*

- In case there is an upward revision in the value of exports of goods, and the IGST paid at the time of original exports is already refunded to the exporter under Rule 96, then in that case, Rule 89(1B) is introduced for such exporters to claim refund of the additional integrated tax paid on account of such upward revised within 2 years from the relevant date.
- Detailed mechanism has been provided by way of introduction of Rule 89(2)(ba) & Rule 89(2)(bb) to produce the relevant proofs including copy of such supplementary invoices or debit notes, the details of payment of additional amount of IGST, foreign inward remittance certificate issued by Authorised Dealer-I Bank and so on before the proper officer for claim of refund.



- Relevant changes have been proposed in Rule 96 of the CGST Rules to allow refund of IGST paid on account of upward revision in value of exports (goods) after the original export.
- Circular No. 226/20/2024-GST dated 11.07.2024 is issued to elaborate on the process of granting of refund in this regard as well.

**IX. Refund of tax paid on inward supplies of goods received by Canteen Stores Department.**

*(Para 18 of Notification No. 12/2024 - Central Tax)*

- Rule 95B is introduced in the CGST Rules to provide a mechanism for a Canteen Stores Department under the Ministry of Defence to claim refund under provisions of the GST Law.
- Circular No. 227/21/2024-GST dated 11.07.2024 is issued to elaborate on the process of granting of refund in this regard.

**X. Modification in the computation of time limit of receipt of export proceeds (services)**

*(Para 20 of Notification No. 12/2024 - Central Tax)*

- Rule 96A provides the time limit of obtaining foreign currency remittances from foreign customers. The said time limit is proposed to be rationalized as under:

<b>Old Rule 96A(1)(b)</b>	<b>New Rule 96A(1)(b)</b>
<i>Fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange or in Indian rupees, wherever permitted by the Reserve Bank of India.</i>	<i>Fifteen days after the expiry of one year, <u>or the period as allowed under the Foreign Exchange Management Act, 1999 (42 of 1999) including any extension of such period as permitted by the Reserve Bank of India</u>, whichever is later, from the date of issue of the invoice for export, or such further period as may be allowed by the Commissioner, if the payment of such services is not received by the exporter in convertible foreign exchange or in Indian rupees, wherever permitted by the Reserve Bank of India</i>

- Previously there was no provision of higher credit even if provided by the FEMA, as permitted by the RBI. Now, that issue shall be resolved whereby, if any higher period is allowed under FEMA (with permission of RBI), then such period will be applicable for bringing the foreign receipts in India for such export of services.

**XI. Appeals to GST Tribunal**

*(Para 21, 22 and 23 of Notification No. 12/2024 - Central Tax)*



- Rules 110, 111 and 113 of the CGST Rules, as applicable for filing of appeal before appellate tribunal by taxpayer and department including withdrawal of such appeals, are being substituted. The revised rules are summarized hereunder:

- Appeal by taxpayer (Rule 110)

- An appeal before Tribunal must be filed electronically in Form GST APL-05 with the necessary documents and a provisional acknowledgment will be issued to the appellant immediately. Similarly, a memorandum of cross-objections shall be filed electronically before the Tribunal in Form GST APL-06.
- Manual filling of appeal/ memorandum of cross-objections shall be allowed only in accordance with a general/ special order (with conditions and restrictions) issued by the registrar.
- Where the order appealed against is uploaded on GST portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 on removal of defects, if any. In case, where Order is not uploaded online, a self-certified copy of the said order will be required to be submitted within 7 days of filing of the appeal. The date of provisional acknowledgment shall be considered as the date of filing only in these cases.
- In cases where the self-certified copy of the said order is not submitted within 7 days, the date of submission or uploading of such self-certified copy shall be considered as the date of filing of appeal.
- The appeal filing fees shall be as under:

<b>Tax/ ITC demand/ Fee/ Fine</b>	<b>Appeal filing fees*</b>
2,00,000/-	5,000/-
8,50,000/-	9,000/-
1,00,00,000/-	25,000/-
Order not involving tax, interest, fine, fee or penalty	5,000/-
Application for rectification of errors before Tribunal	NIL

\*Rs. 1,000/- for every one lakh of rupees of tax/ITC demand or the amount of fine, fee or penalty determined in the Order. Minimum Fees - Rs. 5,000/- & Maximum Fees - Rs. 25,000/-

- Appeal by Department (Rule 111)

- An appeal before Tribunal by the Department must be filed electronically in Form GST APL-07 with the necessary documents and a provisional acknowledgment will be issued immediately. Similarly, a memorandum of cross-objections shall be filed electronically before the Tribunal in Form GST APL-06
- Manual filling of appeal/ memorandum of cross-objections shall be allowed only in accordance with a general/ special order (with conditions and restrictions) issued by the registrar.





- Provisions relating issuance of GST APL-02 and date of filing of appeal as provided under Rule 110 shall apply to filing of appeal by Dept as well.
- Withdrawal of Appeal (Rule 113)
  - Appeal filed by taxpayer or department will be allowed to be withdrawn by filing an application in FORM GST APL-05/07W before the issuance of the order by the Tribunal.
  - Where final acknowledgment is issued in Form GST APL-02, the withdrawal of appeal shall be subject to the approval of the Tribunal (to be decided within 15 days of filing of withdrawal application)

## **XII. E-way Bills by Unregistered Persons**

(Para 24 of Notification No. 12/2024 - Central Tax)

- An unregistered person will now be required to fill out Form GST ENR-03 on the common portal and basis of the same, a unique enrolment number shall be generated. Using this unique enrolment number, such unregistered persons would now be able to generate e-way bills on the EWB portal for movement of goods.

## **XIII. Changes in provisions relating to issuance of notice and demands orders (Rule 142)**

(Para 25 of Notification No. 12/2024 - Central Tax)

- Previously officers were required to issue acknowledgement against payment made by taxpayer against demand in Form GST DRC-03. The said process is now amended to provide that acknowledgment of payment shall be issued in Form GST DRC-04 electronically (and most likely, will be automated).
- There was no provision to drop the proceedings after intimation of liability in Part A of Form GST DRC-01A. Now, a new form is proposed in Part C of Form GST DRC-01A, wherein, the officer has been given an option to either accept the submission/ payment made and drop the case, accordingly without the issuance of notice in Form GST DRC-01.
- In certain cases, taxpayers have paid the demand amount in Form GST DRC-03. However, the electronic liability register still shows outstanding liability since there is no mechanism to link the payment in Form GST DRC-03 with the liability generated in the electronic liability register. A new rule 142 (2B) is proposed to be introduced whereby, taxpayer will be required to file an application in Form GST DRC-03A electronically wherein, the amounts paid through Form GST DRC-03 shall be credited in Electronic Liability Register in Form GST PMT -01 against the debit entry created for the said demand.

## **XIV. New Forms Announced/ Changes to existing Forms**

- Form GST ENR-03 (application for enrolment by unregistered persons)



- Form GSTR-1A (amendment of outward supplies of goods or services for current tax period only)
- Form GSTR 2B updated to include amendments from Form GSTR 1A and a new table introduced for ITC to be reversed under Rule 37A (i.e., GSTR 1 filed by suppliers but GSTR 3B not filed)
- In Form GSTR 3B, adjustment of negative liability of previous tax period shall now be auto captured in Table 6 (Payment Table)
- GSTR-7 (filed by PSUs/ Govt Dept. deducting GST-TDS) are now required to upload invoice level details along with payment details with TDS deducted and deposited on behalf of the supplier.

Old Reporting:

GSTIN of deductee	Amount paid to deductee on which tax is deducted	Amount of tax deducted at source		
		IGST	CGST	SGST
(1)	(2)	(3)	(4)	(5)

New Reporting:

GSTIN of deductee	Invoice/ Document details			Amount paid to deductee on which tax is deducted	Amount of tax deducted at source		
	No.	Date	Value		IGST	CGST	SGST
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Similar changes in Table No. 4 (amendment table) also proposed in Form GSTR-7

- For e-commerce operators filing Form GSTR 8, in addition to the tax collected at source, the return in Form GSTR-8 shall additionally require capturing of Place of Supply for all the transactions. The above change is made applicable to Table 3 and 4 of Form GSTR-8.
- Changes to Form GSTR 9 & GSTR 9C
  - New row incorporated in Table 4 to capture supplies on which ECO is required to pay tax as per Section 9(5) & which is reported in Table 15 of Form GSTR 1 by ECO. Similarly, an addition row is added in Table 5 of Form GSTR 9 to capture supplies on which ECO is required to pay tax as per Section 9(5) & which is reported in Table 14 of Form GSTR 1 by the supplier.
  - For FY 2023-24 onwards, Table 8A will capture details of ITC reported in GSTR 2B of that particular financial year. Hence, the issues of the past 2 years, where Table 8A captured details of GSTR 2A but the monthly returns were filed on the basis of GSTR 2B, shall now be resolved moving forward.
  - Other relaxation and reporting requirements of FY 2022-23, for GSTR 9 and 9C, have been continued for FY 2023-24 as well.
- New Refund type with Statement 9A under GST RFD-01 introduced for “*Additional integrated tax paid on upward revision in price of goods subsequent to export*”



- New Refund Form GST RFD-10A for Canteen Stores Department introduced.
- Withdrawal of appeal forms in Form GST APL-05/07W introduced
- Part C of Form GST DRC-01A introduced for *Acceptance of submission and/or payment made in reply to intimation made in Part-A of FORM GST DRC-01A*
- Form GST DRC-03A introduced (*Application for adjustment of the amount paid through FORM GST DRC-03*)

**XV. Notification which enabled biometric verification at the time of registration only for Gujarat, now rescinded.**

*(Notification No. 13/2024 – Central Tax dated 10.07.2024 w.e.f. 10.07.2024)*

- The registration process requiring biometric verification for specific applicants based on data analysis and risk parameters is now applicable for all states and UT, w.e.f. 10.07.2024.

**XVI. Form GSTR 9 applicability for FY 2023-24.**

*(Notification No. 14/2024 – Central Tax dated 10.07.2024)*

- All regular taxpayers having turnover of less than 2 crores are exempted from filing of Form GSTR 9 (annual return) for FY 2023-24.

**XVII. TCS rate reduced.**

*(Notification No. 15/2024 – Central Tax dated 10.07.2024)*

- Tax collected by ECO under section 52 of the CGST Act is now reduced from existing rate of 1% (i.e., 0.5% CGST and SGST each) to 0.5% (0.25% – CGST and SGST each).
- Similar notifications issued under IGST (Notification No. 01/2024- Integrated Tax) and UTGST (Notification No. 01/2024- Union Territory Tax) as well.

**XVIII. Pre-deposit requirement clarified where Appeal before Tribunal is pending on account of non-constitution of the Tribunal Bench**

*(Circular No. 224/18/2024 dated 11.07.2024)*

- The CBIC has clarified that till the time GST Appellate Tribunal is not constituted, the taxpayers are required to make payment of pre-deposit if they intend to file appeal against the Order of the appellate authority. If pre-deposit payment is not made, stay against recovery will not be granted and it will be deemed that the taxpayer does not intend to file an appeal.
- The Circular has discussed the process to be followed for two modes of payment of pre-deposit viz., taxpayers yet to make payment of pre-deposit and taxpayers who have already made payment of pre-deposit via Form GST DRC-03

**(A) Taxpayers yet to make payment of pre-deposit**

- The taxpayer can make payment of an amount equal to the amount of pre-deposit by navigating to Service → Ledgers → Payment towards demand. Here, the taxpayer must navigate to Electronic Liability Register (ELL) Part-II and select the order





against which payment is intended to be made. The payment so made will be adjusted against the amount of pre-deposit required to be deposited at the time of filing of appeal before the Tribunal.

- After making the payment of pre-deposit as above, the taxpayer needs to file an undertaking/ declaration with the jurisdictional officer intimating the payment of pre-deposit and that an appeal will be filed by him before the Tribunal once the Tribunal comes into operation within the deadlines prescribed for the same.

(B) Taxpayers who have already made payment of pre-deposit

- Payment of pre-deposit made by Form GST DRC-03 is not the correct mode of making pre-deposit, as per the circular. However, the jurisdiction officer should not insist on recovery for the remaining amount if the below process is followed by the taxpayer.
- Once the functionality of FORM GST DRC-03A is made available on the portal, the taxpayer is required to file an application in FORM GST DRC-03A to allocate the amount paid in Form GST DRC-03 toward the liability raised under Electronic Liability Register.
- Thereafter, the said amount shall be considered as payment of pre-deposit only when appeal is filed before the Tribunal once the same is operational. If appeal is not filed within the due dates prescribed, then the officer can proceed for recovery of balance demand.

## **XIX. Clarifications regarding Corporate Guarantee**

(Circular No. 225/19/2024-GST dated 11.07.2024)

- Various queries were raised by the taxpayers after a specific clause for the valuation of supply of services of providing corporate guarantee was introduced in the GST Rules. The CBIC has provided clarification to a host of such questions raised and the same are summarized below:

<b>Query</b>	<b>Clarification</b>
1. Whether Rule 28(2) introduced w.e.f. 26.10.2023 applies to corporate guarantees issued before such date?	Service of providing corporate guarantee between related persons in respect of corporate guarantee issued or renewed <u>before</u> 26.10.2023 shall be valued in accordance with Rule 28.  For all corporate guarantee issued or renewed <u>after</u> 26.10.2023, the same shall be valued in accordance with Rule 28(2).
2. Whether valuation prescribed in Rule 28(2) is applicable on the value of corporate guarantee or the value of actual loan disbursed?	The supply of the service of providing a corporate guarantee will be <u>calculated based on the amount guaranteed</u> and not the amount of loan actually disbursed to the recipient of the corporate guarantee.



Query	Clarification
3. What happens when the existing loan is taken over and the corporate guarantee is assigned to the new lender?	At the time of assignment to the new lender, <u>there will be no impact</u> . Rule 28(2) will be triggered when there is issuance of fresh corporate guarantee or there is a renewal of the existing corporate guarantee.
4. What is the GST payable in case where corporate guarantee is provided by more than one entity (i.e., co-guarantors)?	<u>Each co-guarantor shall be responsible to pay their share of GST, proportionate to their share.</u>  E.g. 1, if there are two joint co-guarantors for a cumulative guarantee of Rs. 1 Crore, each co-guarantor shall value their share equally i.e., 1% of 50% of 1 crore.  E.g. 2, Similarly is proportion is allocated - say A provides guarantee for 60% and B provides guarantee for 40%, then, A and B shall be liable for GST for their share only.
5. Can GST be paid by recipient under RCM and claim credit of same for corporate guarantees?	<u>Tax is payable under forward charge</u> and hence, the guarantor is required to pay tax and issue tax issue accordingly. Further, <u>only when the guarantor is located outside India and the recipient is in India, tax under RCM shall be payable by the recipient</u> under import of services.
6. How is the discharge of tax liability to be done on corporate guarantee @ 1% of guarantee offered?	Notification 12/2024-Central Tax has amended Rule 28(2) to clarify that the computation shall be done <u>per annum basis</u> .  If the guarantee is for 5 years, then the value of such corporate guarantee provided would be 5% of the amount guaranteed or the actual consideration, whichever is higher.  Similarly, if a corporate guarantee is issued, say for a period of one year and is renewed five times, then for each year, tax would be payable on 1% of the amount of such guarantee offered, or the actual consideration, whichever is higher.
7. Whether benefit of second proviso to Rule 28(1) be applicable to Rule 28(2)?	In cases involving the supply of service of corporate guarantees between related persons, where full input tax credit is available to the recipient of services, the value declared in the invoice shall be deemed to be the value of the supply of the said service (retrospective amendment brought by way of insertion of



Query	Clarification
	proviso to Rule 28(2) by Notification No. 12/2024 - Central Tax.)
8. Whether valuation in terms of Rule 28(2) of CGST Rules will apply to the export of the service of providing corporate guarantee between related persons?	No, the same would be applicable only if the recipient is a domestic entity and the said amendment is retrospectively brought in Rule 28(2) by Notification No. 12/2024 - Central Tax.

### **Disclaimer**

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