



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

A slew of circulars was issued on 17<sup>th</sup> July 2023 which provided the much-needed clarity regarding certain decisions announced in the 50<sup>th</sup> GST Council meeting held on 11<sup>th</sup> July 2023. We have summarised the gist of all 8 circulars to enable our readers to take necessary action on this front, if required.

## **I. Branch Transfer of services vs ISD Mechanism**

*(Circular No 199/11/2023-GST dated 17.07.2023)*

- For Common Input services of a third-party vendor received by HO, but attributable to HO and branches/ one or more branches, HO can issue invoices to respective branches in respect of such common input services. ISD mechanism is not mandatory for transfer of ITC.
- When full ITC is available to branches, there would be no questions regarding the valuation adopted by the HO, including NIL value (shelter under 2nd proviso to Rule 28 of CGST Rules 2017).
- When full ITC is NOT available to branches, the cost of salary of employees at HO may not be included in the working to determine the taxable value of internally generated services.
- *Caveat: Any distribution of ITC, either through ISD or Branch transfer route should be done only if services have actually been provided to the branches.*

## **II. ITC mismatch for the period 01.04.2019 to 31.12.2021.**

*(Circular No 193/05/2023-GST dated 17.07.2023)*

- The benefit of Circular No. 183/15/2022-GST dated 27.12.2022 which permitted submission of Supplier / CA certificate for certain ITC mismatch cases has been extended upto 31.12.2021 subject to restrictions introduced by Rule 36(4) of the CGST Rules.
- The table below summarized the position for various interim periods:

<b>Period</b>	<b>Clarification</b>
01.04.2019 to 08.10.2019	No restriction - certificate criteria as applicable for FY 2017-18 and FY 2018-19, to be applicable till 08.10.2019
09.10.2019 to 31.12.2019	Certificates can be submitted but <u>only to the extent of 20% of eligible ITC of GSTR 2A</u>
01.01.2020 to 31.12.2020	Certificates can be submitted but <u>only to the extent of 10% of eligible ITC of GSTR 2A</u>
01.01.2021 to 31.12.2021	Certificates can be submitted but <u>only to the extent of 5% of eligible ITC of GSTR 2A</u>
01.01.2022 onwards	ITC claim as per GSTR 2B only - no scope for submission of any certificates



### **III. Refund and related process changes:**

*(Circular No 197/09/2023-GST dated 17.07.2023)*

- W.e.f. 01.01.2022 (i.e., tax period January 2022 onwards), refund of accumulated ITC shall be available based on ITC appearing in Form GSTR 2B only. In case any refund has already been processed based on Form GSTR 2A, then the same shall not be reopened only because of the issuance of this clarification.
- The Annexure-A to the Circular No. 125/44/2019-GST providing a list of submissions has been amended as under:
  - a. Self-certified copies of invoices not available in Form GSTR 2A are not eligible for refund and hence not required to be uploaded
  - b. Copy of Form GSTR-2A of the relevant period not required to be uploaded
  - c. Declaration relating to sections 16(2)(c) suitably amended as Section 42 has been omitted.
- If goods are not exported within 3 months or the payment of services is not received in foreign convertible currency within the prescribed time limit, then payment of IGST is required to be made as per Rule 96A with interest. However, once such goods are exported or payment is received for such services, then the export status would be restored and the refund would be allowed except the interest paid earlier. Such refund applications to be made under the category of “Any Other” till the time functionality is developed under the “Excess payment of tax” category.

### **IV. Computation of interest in case of wrong availment of IGST credit**

*(Circular No 192/04/2023-GST dated 17.07.2023)*

- It has been clarified that when any IGST credit is wrongly availed and such ITC is subsequently reversed, the interest liable to be paid for such incorrect availment of IGST will only be triggered if the cumulative E. Cr. L. balance of IGST, CGST and SGST falls below the value of such wrongly availed credit.
- Further, any credit balance in compensation cess would not be considered for computing interest under Rule 88B(3) of the CGST Rules in case of wrongly availed and utilized IGST, CGST or SGST credit.

### **V. Clarification on ITC in respect of warranty replacement of parts and repair services during the warranty period**

*(Circular No 195/07/2023-GST dated 17.07.2023)*

- When the manufacturer/distributor provides replacement of parts and/or repair services during the warranty period without charging any additional consideration from the recipient:
  - No GST is chargeable on such replacement of parts and /or repair services



- Manufacturer/Distributor is not required to reverse the ITC in respect of the said replacement parts and/or repair services.
- In cases where the distributor provides replacement of parts and/or repair services during the warranty period to the recipient on behalf of the manufacturer, there could be the following 3 scenarios:

<b>Scenario</b>	<b>Clarification</b>
a. The distributor issues a tax invoice to the manufacturer for the supply made	Distributor to pay tax as per the tax invoice issued and the manufacturer shall be eligible for such ITC.
b. Distributor raised requisition request to the manufacturer for replacement of such parts	No GST is payable by the manufacturer on such replacement of parts and no ITC is required to be reversed as well.
c. Manufacturer issues a credit note to the distributor for using parts from the existing stock supplied by the manufacturer	Manufacturer shall be permitted to adjust his tax liability subject to corresponding reversal of ITC by the distributor as well for such value.

- Based on the timing of choosing the option of extended warranty, GST is payable as under:
  - At the time of purchase itself - the extended warranty becomes part of the value of composite supply and GST on such extended warranty shall be payable as applicable to the supply of concerned goods.
  - After original supply but before the expiry of standard warranty - GST is payable depending on the nature of the extended warranty provided (only for goods or for services or for composite supply involving goods and services)-

#### **VI. Clarification on the taxability of shares held in a Subsidiary co. by the Holding Co.**

*(Circular No 196/08/2023-GST dated 17.07.2023)*

- The circular clarifies the activity of holding shares of the subsidiary co. by the holding co. cannot be treated as a supply of services by the holding co. to the subsidiary co. and no GST is applicable on the same.

#### **VII. Clarification about E-invoice to Govt. Dept/ Govt. agency/ local authority/ PSUs.**

*(Circular No 198/10/2023-GST dated 17.07.2023)*

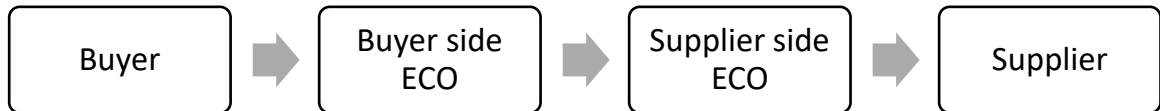
- The circular clarifies that E-invoice is required to be generated by suppliers when the tax invoices are issued to Govt. Dept/ Govt. agency/ local authority/ PSUs, who are only registered for the purposes of tax deduction at source under GST. Such Govt. Dept/ Govt. agency/ local authority/ PSUs must be treated as registered persons under the GST.



### VIII. Multiple E-commerce Operators (ECO) in a single supply

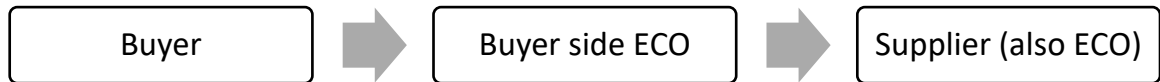
(Circular No 194/06/2023-GST dated 17.07.2023)

- The circular has provided clarification regarding responsibility of deduction of GST-TCS in two scenarios involving multiple ECO for one supply:
  - a. Supplier side ECO and Supplier are two different entities



In the above case, Buyer-side ECO will neither be required to collect TCS nor will be required to do compliance under Section 52 of the CGST Act. The seller side ECO is required to collect TCS as applicable and pay the same to the Government in accordance with section 52 of CGST Act.

- b. Supplier side ECO is the supplier of the supply



In the above case, Buyer-side ECO will be required to collect TCS and comply with requirements of Section 52 of the CGST Act.

#### Disclaimer

This newsletter is for general public information and knowledge sharing. In case any clarifications required, you may connect with us at:

Sunil Gabhawalla @ [sunil@sbgco.in](mailto:sunil@sbgco.in)  
Yash Parmar @ [yash@sbgco.in](mailto:yash@sbgco.in)  
Parth Shah @ [parth@sbgco.in](mailto:parth@sbgco.in)  
Darshan Ranavat @ [darshan@sbgco.in](mailto:darshan@sbgco.in)  
Prakash Dave @ [prakash@sbgco.in](mailto:prakash@sbgco.in)  
Aman Haria @ [aman@sbgco.in](mailto:aman@sbgco.in)

Our office address:

S B Gabhawalla & Co.,  
802-803 Sunteck Grandeur  
Off S V Road, Opp Subway  
Andheri West Mumbai 400058  
Landline - 022 - 66515100  
Web: [www.sbgco.co.in](http://www.sbgco.co.in)

Want to stay connected, join our Whatsapp group by clicking on the link -  
<https://chat.whatsapp.com/KJRD8SHyjSK5FUkFj8Of4t>