

CBIC issues Notifications and Circulars pursuant to the recommendations made by the 53rd GST Council Meeting held on 22 June 2024



The 53rd GST Council meeting was scheduled on 22 June 2024 in New Delhi¹. The GST Council in this meeting had approved various clarifications to be issued. In furtherance to these recommendations, CBIC had issued Circular nos. 207/1/2024 to 222/16/2024, all dated 26 June 2024².

Pursuant to the above, CBIC has now issued additional notifications and Circulars for implementing the recommendations made by the 53rd GST Council meeting. The gist of the Notifications and the Circulars issued by CBIC has been summarised below.

Amendments to Central Goods and Services Tax Rules, 2017 (CGST Rules) vide Notification No. 12/2024-Central Tax

RULE AMENDED/ INSERTED	EFFECTIVE DATE	AMENDMENT
Rule 8(4A)	To be notified	<ul style="list-style-type: none"> The application for GST registration filed by a person who has not opted for Aadhaar authentication can be treated as complete only after successful verification of the following: <ul style="list-style-type: none"> Photograph of applicant (for an individual applicant) or such individuals notified under Section 25(6C) of CGST Act³ (for a non-individual applicant); and Verification of original copy of documents uploaded at the notified Facilitation Centers.
Rule 21	10 July 2024	<ul style="list-style-type: none"> Registration is liable to be cancelled if a person fails to furnish all GST returns from the date/ effective date (as the case may be) of cancellation of GST registration till the date of order of revocation of cancellation of registration (revocation order) within 30 days from the date of revocation order.
Rule 28(2)	Retrospective effect from 26 October 2023	<ul style="list-style-type: none"> Deemed value of supply <i>qua</i> corporate guarantees (CG) to apply only if the recipient is located in India, in addition to being a related person. The deemed value of supply would be 1% of the value of guarantee per annum or the value charged, whichever is higher⁴. If the recipient is eligible for full input tax credit (ITC), the value declared in invoice shall be deemed to be the value of supply of such services.
Rule 39	To be notified	<ul style="list-style-type: none"> The revised procedure for distribution of ITC by Input Service Distributor has been prescribed.

¹ Our alert on the gist of the recommendations made by the GST Council in its 53rd Meeting can be accessed by clicking [here](#).

² Our alert on Circular nos. 207 to 222 can be accessed by clicking [here](#).

³ Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons as may be notified

⁴ Editor's note - Earlier, the rule only mentioned about 1%, without mentioning about periodicity.

Rule 59	10 July 2024	<ul style="list-style-type: none"> ▪ An optional return (Form GSTR-1A) is introduced to amend or furnish additional details of outward supplies. Form GSTR-1A can be filed after furnishing Form GSTR-1 return but before filing of return in Form GSTR-3B. ▪ Additional details to be furnished to include the following: <ul style="list-style-type: none"> - Invoice-wise details of supplies made to registered persons (B2B supplies) and inter-state supplies to unregistered persons (B2C supplies) with invoice value more than INR 0.1Mn; - Consolidated details of intra-state B2C supplies for each rate of tax and inter-state B2C supplies with invoice value upto INR 0.1Mn for each rate of tax; and - Debit and credit notes issued during the month for invoices issued previously.
Rule 59(4)	1 August 2024	<ul style="list-style-type: none"> ▪ The details required to be furnished in Form GSTR-1 is amended as under: <ul style="list-style-type: none"> - Invoice-wise details of inter-state B2C supplies with invoice value more than INR 0.1Mn (earlier INR 0.25Mn) - Consolidated details of inter-state B2C supplies with invoice value upto INR 0.1Mn for each rate of tax (earlier INR 0.25Mn)
Rule 60(7)	10 July 2024	<ul style="list-style-type: none"> ▪ Form GSTR-2B to also include additional details or amendments furnished in Form GSTR-1A after the due date of filing Form GSTR-1 for the previous tax period till the due date of furnishing Form GSTR-1 for the current tax period.
Rule 62	10 July 2024	<ul style="list-style-type: none"> ▪ From FY 2024-25 onwards, the due date for filing Form GSTR-4 will be 30 June following the end of financial year.
Rule 88B	10 July 2024	<ul style="list-style-type: none"> ▪ Interest is not payable if- <ul style="list-style-type: none"> - An amount is credited in Electronic Cash Ledger (ECL) on or before the due date of filing the return; - Such amount is subsequently debited from ECL while filing return after the due date for filing return; and - The said amount lies in ECL from the due date till the date of its debit i.e., at the time of filing return.
Rule 89	10 July 2024	<ul style="list-style-type: none"> ▪ Application for refund of additional IGST paid on account of upward revision in the price of the goods subsequent to exports, on which refund of IGST at the time of export has already been sanctioned to be made through Form GST RFD-01 before the expiry of 2 years from the relevant date (subject to certain conditions and restrictions). ▪ If the relevant date was before the effective date of this amendment, the refund application can be filed before the expiry of 2 years from the effective date of this amendment. ▪ The documentary evidence to substantiate the refund of additional IGST on account of upward revision in the price of goods subsequent to exports are prescribed in the rule.
Rule 95B	10 July 2024	<ul style="list-style-type: none"> ▪ The procedure for claiming refund of tax paid on inward supply of goods received by Canteen Stores Department is revised.
Rule 96	10 July 2024	<ul style="list-style-type: none"> ▪ An exporter of goods may file an application in Form GST RFD-01 for refund of additional IGST paid on account of upward revision in price of goods subsequent to exports on which refund of IGST at the time of export is already refunded and such application to be dealt with as per Rule 89⁵.

⁵ Editor's note - please see above for changes in Rule 89 relating to refund claim of additional GST paid on export of goods due to subsequent increase in price.

Rule 96A	10 July 2024	<ul style="list-style-type: none"> In case of services exported under Letter of Undertaking, the time limit to receive remittance for value of such services now also has a reference to time period allowed under the Foreign Exchange Management Act, 1999, including the extensions granted by the Reserve Bank of India, in addition to the previous time limit of one year or the extension granted by the Commissioner (if any).
Rules 110, 111 and 113A	1 August 2024	<ul style="list-style-type: none"> The procedure for filing the appeal/ application before the GST Appellate Tribunal including withdrawal thereof has been revised, by substitution of rule 110 and 111 and insertion of new rule 113A.
Rule 138(3)	To be notified	<ul style="list-style-type: none"> An unregistered person required to generate e-way bill (inter-state transportation of handicraft goods⁶) or an unregistered person opting to generate e-way bill shall submit the details in Form GST ENR-03 post which, a unique enrolment number shall be generated and communicated to such person.
Rule 142	10 July 2024	<ul style="list-style-type: none"> Acknowledgement for payment made through Form GST DRC-03 to be issued electronically on GST portal in Form GST DRC-04. Proper officer to issue an intimation in Part C of Form GST DRC-01A accepting the payment or submissions or both, as the case may be, made by a person. Where the amount of tax, interest, penalty or any other amount payable by a person is paid through Form GST DRC-03 (instead of crediting the Electronic Liability Register in Form GST PMT-01), the registered person to file an application in Form GST DRC-03A for crediting the Electronic Liability Register against the debit entry created for the demand. However, no such application can be filed in respect of such payment if the order in Form GST DRC-05 is issued for concluding the proceedings.

In addition to the above, the following consequential amendments have also been made to the CGST Rules:

- Rules 21(f), 21A(2A), 36(4)(a), 37A, 40(1)(e), 48(3), 60(1), 88C, 96(1)(b), 96(2), 96A(2) and 163(1)(c) have been amended to incorporate the reference to Form GSTR-1A.
- In addition to the above, various Forms appended to the CGST Rules have been inserted/ substituted/ amended⁷.

Other notifications:

- Notification No. 13/2024-Central Tax:** Effective 10 July 2024, the exemption from biometric-based Aadhaar authentication under Rule 8(4A) of the CGST Rules⁸ is withdrawn.
- Notification No. 14/2024-Central Tax:** Exemption is granted from the requirement of filing annual return for FY 2023-24 for the registered persons having aggregate turnover upto INR 20Mn.
- Notification Nos. 15/2024-Central Tax, 01/2024-Integrated Tax and 01/2024-Union Territory Tax:** Effective 10 July 2024, the applicable rate of Tax Collected at Source (TCS) to be collected by an e-commerce operator (ECO) would be reduced from 1% to 0.5% (0.5% in case of IGST / 0.25% each for CGST and SGST) of the net value of supplies made through it by other suppliers where the consideration is to be collected by ECO.

Circulars

Taxability and value of supply of services of providing CG between related persons (Circular No. 225/19/2024-GST)

- Applicability of Rule 28(2) of the CGST Rules for CGs issued prior to 26 October 2023 (relevant date):**
 - The supply of service of providing CG to any banking company or financial institution by a supplier to a related recipient on behalf of the said recipient was taxable even before the insertion of Rule 28(2) of the CGST Rules.
 - Rule 28(2) of the CGST Rules determines the value of supply and not the taxability per se. Thus, prior to the insertion of Rule 28(2) (i.e., prior to the relevant date), the value of supply of providing CG to any banking company or financial institution by a supplier to a related recipient, on behalf of the said recipient would be governed by Rule 28 of the CGST Rules, as it existed then.

⁶ In terms of fourth proviso to Rule 138(1) of the CGST Rules

⁷ Insertion of Form GST ENR-03 and amendments to Form GSTR-3B, GSTR-7 and GSTR-8 to be effective from a date that would be notified by the Government. Further, amendments to Form GSTR-1 and GSTR-5 to be made effective from 1 August 2024. The remaining forms (viz., Form GSTR-1A, GSTR-2A, GSTR-2B, GSTR-4, GSTR-4A, GSTR-6A, GSTR-8, GSTR-9, GSTR-9C, GST RFD-01, GST RFD-01A, GST APL-02, GST APL-05, GST DRC-01A, GST DRC-01B, GST DRC-03, GST DRC-03A and GST DRC-04) have been inserted / substituted / amended with effect from 10 July 2024

⁸ The exemption was available to all States and Union Territories except Andhra Pradesh, Gujarat and Puducherry vide Notification No. 27/2022-Central Tax dated 26 December 2022.

- Thus, for CGs provided prior to the relevant date, the value of supply of service would be determined as per Rule 28 of the CGST Rules, as it existed during that time. However, where the CG is issued or renewed on or after the relevant date, the value of supply would be determined as per Rule 28(2) of the CGST Rules.
- **Value of supply where CG is provided for a particular amount and the loan is partly availed or not availed by the recipient and eligibility of the recipient to claim ITC even before the total loan is disbursed:**
 - The value of supply of the service of providing CG is calculated based on the amount guaranteed and not on the amount of loan actually disbursed.
 - The recipient will be eligible to claim ITC (subject to prescribed conditions and restrictions) irrespective of the actual timing and the amount of loan disbursed.
- **Taxability in case of takeover of existing loans involving an assignment of an already issued CG:**
 - The takeover of loan by another banking company or a financial institution would not be leviable to GST (unless there is issuance of fresh CG or renewal of the existing CG) since there is no service of issuance of CG.
- **Valuation where CG is provided by more than one entity / co-guarantor:**
 - The value of supply in such case would be the sum of actual consideration paid/payable to the co-guarantors, if such amount is higher than 1% of the amount of guarantee offered.
 - In cases where the consideration paid/payable to co-guarantors is less than 1% of the amount of guarantee offered, GST shall be payable by each co-guarantor proportionately on 1% of the amount guaranteed by them.
- **Taxability in case of intra-group CGs:**
 - Where domestic corporates issues intra-group guarantees, GST is to be paid under the forward charge mechanism and the invoice is to be issued by the supplier of service.
 - Where foreign/overseas entity provides guarantee for a related entity located in India, the recipient of service i.e., the related entity located in India would be liable to discharge GST under the reverse charge mechanism.
- **Periodicity for discharge GST liability on CGs:**
 - Pursuant to the retrospective amendment to Rule 28(2) of the CGST Rules (as mentioned above), the value of supply of the service of providing CG to a banking company or a financial institution on behalf of a related recipient shall be one per cent of the amount guaranteed **per annum** or the actual consideration, whichever is higher.
 - Where the CG is provided for more than one year, the value of supply shall be 1% of the amount of guarantee multiplied by the number of years for which the guarantee is offered or the actual consideration, whichever is higher.
 - Further, where the CG is provided for a period less than one year, the value of supply shall be determined on a proportionate basis for the said period or the actual consideration, whichever is higher.
 - However, where the CG is issued for one year and is renewed multiple times, then the value of supply shall be 1% of the amount of guarantee offered per annum, or the actual consideration, whichever is higher on the initial issuance of such CG as well as on every renewal.
- **Value of supply where full ITC is available to the recipient:**
 - Pursuant to the retrospective amendment to Rule 28(2) of the CGST Rules (as mentioned above), in case of supply of service of CGs provided between related persons, where full ITC is available to the recipient, the value declared in the invoice shall be deemed to be the value of supply of such service.
- **Applicability of Rule 28(2) of the CGST Rules to export of services:**
 - Pursuant to the retrospective amendment to Rule 28(2) of the CGST Rules (as mentioned above), the said rule will not apply in cases of export of services i.e., where the recipient is located outside India.

Guidelines for recovery of outstanding dues (Circular No. 224/18/2024-GST)

- **Recovery of outstanding dues where the First Appellate Authority (FAA) has (partially or fully) confirmed the demand issued by the adjudicating authority:**
 - Where the Taxpayer decides to file an appeal before the GSTAT and wants to make payment of pre-deposit as per Section 112(8) of the Central Goods and Services Tax Act, 2017 (CGST Act):
 - Payment can be made by navigating to the “**Electronic Liability Ledger-Part II**” (ELL) through **Services → Ledgers → Payment towards demand** from the Dashboard where the relevant order against which payment is intended to be made can be selected out of outstanding demand orders.
 - The amount paid has to be mapped against the selected order and the demand amount would be reduced in the balance liability.
 - The amount deposited by the Taxpayer is to be adjusted against pre-deposit requirements at the time of filing appeal before GSTAT. Further, the Taxpayer is required to file an undertaking / declaration with the jurisdictional proper officer that he will file appeal before GSTAT as and when it comes into operation, within the prescribed period⁹.
 - Based on the above, recovery of the remaining amount of confirmed demand as per the order of FAA will stand stayed as per Section 112(9) of the CGST Act.

⁹Section 112 of the CGST Act read with Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 3 December 2019

- Where the Taxpayer does not make payment of the amount equal to pre-deposit or does not provide the undertaking/ declaration to the jurisdiction proper officer, it will be presumed that the Taxpayer is not willing to file an appeal against the order of FAA and in such cases, recovery proceedings can be initiated as per the provisions of the GST law.
- Where the Taxpayer fails to file an appeal before GSTAT within the prescribed period after the GSTAT comes into operation, the remaining amount of demand can be recovered as per the provisions of the GST law.
- **Payments made through Form GST DRC-03:**
 - As per the amended rule 142(2B) of the CGST Rules, where the person liable to pay tax, interest and penalty inadvertently pays the same through Form GST DRC-03, the same can be adjusted as payments made towards demand by filing an application in form GST DRC-03A.
 - Such amounts can be adjusted towards the pre-deposit requirements under Section 107 and 112 of the CGST Act, if and when the Taxpayer files an appeal against the demand before the FAA or GSTAT, as the case may be and the remaining amount of confirmed demand will stand stayed as per Section 107 and 112 of the CGST Act.
 - However, where the Taxpayer does not file an appeal within the prescribed period, the remaining amount of demand will be recovered as per the provisions of the GST law.
- **Filing of application in Form GST DRC-03A:**
 - Owing to present non-availability of the functionality to file Form GST DRC-03A on the GST portal, in cases where an amount of pre-deposit is inadvertently paid through Form GST DRC-03 instead of making payment through ELL against the demand created, the Taxpayer may intimate the proper officer about the same. Upon such intimation, the proper officer may not insist on recovery of the remaining amount payable by the concerned Taxpayer.
 - Once the functionality to file Form GST DRC-03A is available on the GST portal, the Taxpayer may file an application in Form GST DRC-03A, post which, the amount paid vide Form GST DRC-03 may be adjusted against pre-deposit under Section 107 and 112 of the CGST Act.
 - In cases where the Taxpayer fails to file the application in Form GST DRC-03A, the proper officer may proceed to recover the amount payable as per Sections 78 and 79 of the CGST Act.

Other Circulars:

- **Circular No. 223/17/2024-GST:** Circular No. 1/1/2017-CT dated 26 June 2017 which had *inter alia* assigned functions of proper officer relating to registration and composition levy under the CGST Act has been amended to reassign some functions presently assigned to Assistant or Deputy Commissioners of Central Tax or Assistant or Deputy Directors of Central Tax to Superintendent of Central Tax.
- **Circular No. 226/20/2024-GST:** The mechanism for claiming refund of additional IGST paid on account of upward revision in price of goods subsequent to exports has been clarified along with the documents required to be accompanied along with the refund application.
- **Circular No. 227/21/2024-GST:** The procedure for claiming a refund of tax paid by the Canteen Stores Department under Section 55 of the CGST Act has been revised and the circular clarifies the revised process.

[Source Notification Nos. 12-15/2024-Central Tax, 01/2024-Integrated Tax and 01/2024-Union Territory Tax dated 10 July 2024, Circular No. 223/17/2024-GST dated 10 July 2024 and Circular Nos. 224/18/2024-GST to 227/21/2024-GST dated 11 July 2024]

BDO Comments

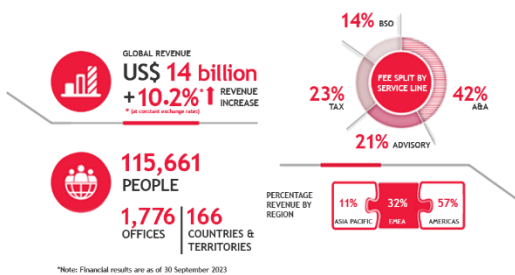
While most of these amendments are in line with the industry expectations based on the recommendations of the GST Council, the retrospective amendment of Rule 28 of the CGST Rules mandating taxpayers to pay GST on CGs on an annual basis can lead to disputes. Further, in such instances, the taxpayer's liability to pay interest (if any) is another area of concern for industry. Now the focus would shift to the amendments in law, which would be announced as part of the Union Budget.

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