

# **GST UPDATE**

## **DECEMBER 2024**

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### **NOTIFICATIONS AND CIRCULARS**

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**A NOTIFICATIONS UNDER CENTRAL TAX**

S. N.	Date	Notification No.	Subject	Sec.	Rule
A.1	10.12.2024	30/2024 – CT	Extends the due date for furnishing Form GSTR-3B for the month of October, 2024 for registered persons whose principal place of business is in the district of Murshidabad in the state of West Bengal	39	61
A.2	13.12.2024	31/2024 – CT	Appoint common adjudicating authority for Show cause notices issued by officers of DGGI	05	-

**A.1 Notification No. 30/2024 – CT ; dated 10.12.2024**

**G.S.R. 760(E).**—In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby extends the due date for furnishing the return in **FORM GSTR-3B** for the month of October, 2024 till the eleventh day of December, 2024, for the registered persons whose principal place of business is in the district of Murshidabad in the state of West Bengal and are required to furnish return under sub-section (1) of section 39 read with clause (i) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017.

2. This notification shall be deemed to have come into force with effect from the 20th day of November, 2024.

[F. No. CBIC-20001/10/2024-GST]

Raushan Kumar, Under Secy.

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**A.2 Notification No. 31/2024 – CT ; dated 13.12.2024**

**S.O. 5392(E).**—In exercise of the powers conferred by section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Board of Indirect Taxes and Customs, hereby appoint officers mentioned in column (4) of the Table below for passing an order or decision in respect of notices mentioned in column (3) of the said Table issued to the noticees mentioned in column (2) of the said Table by the officers of Directorate General of Goods and Services Tax Intelligence under sections 73, 74, 122, 125 and 127 of Central Goods and Services Tax Act, 2017 (12 of 2017), namely

**TABLE**

<b>S. No.</b>	<b>Name of Noticee and Address</b>	<b>Show Cause Notice Number, Date and Issuing Authority</b>	<b>Name of the Adjudicating Authority</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1	M/s Sushil Kumar Munish Kumar & Co. (Prop. Gopal), GSTIN- 24AQXPG1593M1Z6, A/501, Sun Square, Nr. Old Highcourt Income Tax, Navrangpura, Ahmedabad, Gujarat, 380009; and others	15/2024-DGGI Hqrs. Dated 04.08.2024 by Joint Director, DGGI, Hqrs	Additional Commissioner or Joint Commissioner, CGST and Central Excise, Chandigarh Commissionerate [holding the charge of adjudication of DGGI cases].
2	M/s Aggarwal Enterprises (Prop. Monika Garg), GSTIN - 06AEOPG1782K1Z7, SH No. SCF 9b, Anaj Mandi, Sirsa, Sirsa, Haryana, 125055; and others	16/2024-DGGI Hqrs. Dated 04.08.2024 by Joint Director, DGGI, Hqrs	
3	M/s Ahuja Cotspin Pvt. Ltd., GSTIN - 03AAJCA0093R1ZF, Ground Floor, Shop No. 3, B-Vi-I, 1/A, Block-6, Ghati Balmiki, State Bank Of India, Madhopuri, Ludhiana-141008, Punjab; and others	17/2024-DGGI Hqrs. Dated 04.08.2024 by Joint Director, DGGI, Hqrs	
4	M/s BST Textile Mills Pvt. Ltd, GSTIN - 05AACCB7130P1ZL, Plot No. 9, Sector No. 9, Iie Pantnagar, Sidcul, Rudrapur, Udham Singh Nagar, Uttarakhand, 263153; and others	18/2024-DGGI Hqrs. Dated 04.08.2024 by Joint Director, DGGI, Hqrs	
5	M/S Rana Polycot Ltd., GSTIN - 03AAACR7623M1ZB, Ambala-Chandigarh Road, Village Alamgir, Sas Nagar, Punjab, 140507; and others	19/2024-DGGI Hqrs. Dated 04.08.2024 by Joint Director, DGGI, Hqrs	
6	M/s. Garg Acrylics Limited, GSTIN - 03AAACG3332N1ZU, 1230/1, Kanganwal Road, V.P.O. Jugiana, Ludhiana, Punjab, 141120; and others	20/2024-DGGI Hqrs. Dated 04.08.2024 by Joint Director, DGGI, Hqrs	

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<b>S. No.</b>	<b>Name of Noticee and Address</b>	<b>Show Cause Notice Number, Date and Issuing Authority</b>	<b>Name of the Adjudicating Authority</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
7	M/s. S. T. Cottex Exports Pvt. Ltd., GSTIN - 03AAECS5993F1Z8, B-Xxx891, Sherpur Road, Behind Petrol Pump, Ludhiana, Punjab, 141009; and others	21/2024-DGGI Hqrs. Dated 04.08.2024 by Joint Director, DGGI, Hqrs	
8	DURGA COTTON FACTORY, GSTIN - 03AMWPG6219P1ZG, Near Roshan Cotspin, Mandi Killianwali, Sri Muktsar Sahib, Punjab151211; and others	15/2024-25 dated 09.07.2024 by Additional Director DGGI Ludhiana Zonal Unit	
9	GOPIMAL KAUR SAIN INDUSTRIES (P) LTD, GSTIN - 03AAF CG1369Q1ZA, Plot No 15-15A, Mahavir Jain Colony, Sunder Nagar, Ludhiana, Punjab, 141001; and others	17/2024-25 dated 15.07.2024 by Deputy Director DGGI Ludhiana Zonal Unit	
10	Nahar Spinning Mills Limited, GSTIN - 03AAACN5710D1Z6, 371 to 373, 375 to 378, 381, 425, 427, RK Road, Industrial Area A, Ludhiana, Punjab, 141003. ; and others	19/2024-25 dated 19.07.2024 by Additional Director DGGI Ludhiana Zonal Unit	
11	Nahar Industrial Enterprises Limited, GSTIN - 03AACCN3563A2Z2, B3-8, A-4, Focal Point, Phase-IV, Ludhiana, Punjab, 141010; and others	23/2024-25 (GST) dated 23.07.2024 by Additional Director DGGI Ludhiana Zonal Unit	
12	M/s Sharmanji Yarns Pvt Ltd, GSTIN - 03AAHCS6629R1ZP, Village Lakhawal, Lakhawal Road, Kohara, Ludhiana, Punjab, 141112; and others	117-155/2024-GST, dated 09-07-2024 by Additional Director DGGI Chandigarh Zonal Unit	

[F. No. CBIC-20010/27/2024-GST]

**Raushan Kumar, Under Secy.**

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**B CIRCULARS**

<b>S. N.</b>	<b>Date</b>	<b>Circular No.</b>	<b>Subject</b>	<b>Sec</b>	<b>Rule</b>
B.1	04.12.2024	239/33/2024-GST	Amendment to Circular No. 31/05/2018-GST, dated 9th February, 2018 on 'Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017	3	-
B.2	31.12.2024	240/34/2024-GST	Clarification in respect of input tax credit availed by electronic commerce operators where services specified under Section 9(5) of Central Goods and Services Tax Act, 2017 are supplied through their platform	9	-
B.3	31.12.2024	241/35/2024-GST	Clarification on availability of input tax credit as per clause (b) of sub-section (2) of section 16 of the Central Goods and Services Tax Act, 2017 in respect of goods which have been delivered by the supplier at his place of business under Ex-Works Contract	16	-
B.4	31.12.2024	242/36/2024-GST	Clarification on place of supply of Online Services supplied by the suppliers of services to unregistered recipients	12 (IGST)	-
B.5	31.12.2024	243/37/2024-GST	Clarification on various issues pertaining to GST treatment of vouchers	2/9	-

**B.1 Circular No. 239/33/2024-GST ; dated 04.12.2024**

To,

The Principal Chief Commissioners/ Chief Commissioners (All)

The Principal Directors General/ Directors General (All)

Madam/Sir,

**Subject: Amendment to Circular No. 31/05/2018-GST, dated 9th February, 2018 on ‘Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017’-reg.**

Vide Notification No. 02/2022-Central Tax dated 11th March, 2022, para 3A was inserted in Notification No. 02/2017-Central Tax dated 19th June, 2017, to empower Additional Commissioners of Central Tax/ Joint Commissioners of Central Tax of some of the specified Central Tax Commissionerates, with All India Jurisdiction for the purpose of adjudication of the show cause notices issued by the officers of the Directorate General of Goods and Services Tax Intelligence (herein after referred as DGGI). Further, vide Notification No. 27/2024-Central Tax dated 25th November, 2024, Table V has been substituted in the Notification No. 02/2017-Central Tax dated 19th June, 2017, to empower more number of Additional Commissioners of Central Tax/ Joint Commissioners of Central Tax of specified Central Tax Commissionerates, with All India Jurisdiction for the purpose of adjudication of the show cause notices issued by the officers of DGGI. Notification No 27/2024- Central Tax dated 25<sup>th</sup> November, 2024 has come into effect from 1st December, 2024.

2. Consequently, para 7.1 of the Circular No. 31/05/2018-GST dated 9th February, 2018 (as amended by Circular No. 169/01/2022-GST dated 12th March, 2022) is substituted as below:

*“7.1 In respect of show cause notices issued by officers of DGGI, there may be cases where,*

- (i) a show cause notice is issued to multiple noticees, either having the same or different PANs; or*
- (ii) multiple show cause notices are issued on the same issue to multiple noticees having the same PAN,*

*and the principal place of business of such noticees fall under the jurisdiction of multiple Central Tax Commissionerates. For the purpose of adjudication of such show cause notices, Additional/Joint Commissioners of Central Tax of specified Commissionerates have been empowered with All India jurisdiction through amendment in the Notification No. 02/2027 dated 19th June, 2017 vide Notification No. 02/2022-Central Tax dated 11th March, 2022, as further amended vide Notification No. 27/2024-Central Tax dated 25th November, 2024. Such show cause notices may be adjudicated, irrespective of the amount involved in the show cause notice(s), by one of the Additional/Joint Commissioners of Central Tax empowered with All India jurisdiction vide the above mentioned notifications. Principal Commissioners/ Commissioners of the Central Tax Commissionerates specified in the said notification will allocate charge of Adjudication (DGGI cases) to one or more Additional Commissioners/ Joint Commissioners posted in their Commissionerates. Where the*

*location of principal place of business of the noticee, having the highest amount of demand of tax in the said show cause notice(s), falls under the jurisdiction of a Central Tax Zone/Commissionerate mentioned in column 2 of the table below, the show cause notice(s) may be adjudicated by one of the Additional Commissioners/ Joint Commissioners of Central Tax, holding the charge of Adjudication (DGGI cases), of the Central Tax Commissionerate mentioned in column 3 of the said table corresponding to the said Central Tax Zone/Commissionerate. Such show cause notice(s) may, accordingly, be made answerable by the officers of DGGI to the concerned Additional/ Joint Commissioners of Central Tax.*

**TABLE**

<b>Sl. No.</b>	<b>Central Tax Zone/ Commissionerates in whose jurisdiction the location of the principal place of business of the noticee having highest amount of demand of tax involved falls</b>	<b>Central Tax Commissionerate whose Additional Commissioner or Joint Commissioner shall adjudicate Show Cause Notices issued by officers of Directorate General of GST Intelligence</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	Ahmedabad Zone	Ahmedabad South
2.	Vadodara Zone	Surat
3.	Bhopal Zone	Bhopal
4.	Nagpur Zone	Nagpur-II
5.	Chandigarh Zone	Chandigarh
6.	Panchkula Zone	Faridabad
7.	Chennai Zone	Chennai South
8.	Bengaluru Zone	Bengaluru East
9.	Thiruvananthapuram Zone	Thiruvananthapuram
10.	Delhi North and Delhi East Commissionerates of Delhi Zone	Delhi North
11.	Delhi West and Delhi South Commissionerates of Delhi Zone	Delhi West
12.	Jaipur Zone	Jaipur
13.	Guwahati Zone	Guwahati
14.	Hyderabad Zone	Rangareddy
15.	Visakhapatnam (Amaravathi) Zone	Visakhapatnam
16.	Bhubaneswar Zone	Bhubaneswar

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17.	Kolkata Zone	Kolkata North
18.	Ranchi Zone	Ranchi
19.	Lucknow Zone	Lucknow
20.	Meerut Zone	Meerut
21.	Mumbai West, Thane, Thane Rural, Raigarh, Belapur, Navi Mumbai and Bhiwandi Commissionerates of Mumbai Zone	Thane
22.	Mumbai South, Mumbai East, Mumbai Central and Palghar Commissionerates of Mumbai Zone	Palghar
23.	Pune Zone	Pune-II

*7.1.1 It is further clarified that in cases where a show cause notice has been issued to multiple noticees, either having same or different PANs, and the said show cause notice is required to be adjudicated by a common adjudicating authority as per the highest amount of demand of tax in accordance with the criteria mentioned in para 7.1 above, then if any show cause notice(s) is issued subsequently on the same issue to some other noticee(s) having PAN(s) different from the PANs of the noticees included in the earlier show cause notice, the said later show cause notices is to be adjudicated,*

- (i) by the jurisdictional adjudicating authority of the noticee, if there is only one noticee (GSTIN) involved in the said later show cause notice; or*
- (ii) by the common adjudicating authority in accordance with the criteria mentioned in para 7.1 above as applicable independently based on the highest amount of tax demand in the said later show cause notice, if there are multiple noticees (GSTINs) involved in the said later show cause notice having principal place of business under the jurisdiction of multiple Central Tax Commissionerates.”*

3. Further para 7.3 of the Circular No. 31/05/2018-GST dated 9th February, 2018 (as amended by Circular No. 169/01/2022-GST dated 12th March, 2022) is substituted as below:

*“7.3 In respect of show cause notices issued by the officers of DGGI prior to Notification No. 27/2024-Central Tax dated 25th November, 2024 coming into effect, involving cases mentioned in para 7.1 read with para 7.1.1 above and where no adjudication order has been issued upto 30th November, 2024, the same may be made answerable to the Additional/Joint Commissioners of Central Tax, having All India jurisdiction, in accordance with the criteria mentioned in para 7.1 read with para 7.1.1 above, by issuing corrigendum to such show cause notices.”*

4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

5. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

**(Sanjay Mangal)**

Principal Commissioner (GST)

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**B.2 Circular No. 240/34/2024-GST ; dated 31.12.2024**

To,

The Principal Chief Commissioners/ Chief Commissioners of Central Tax (All)

The Principal Directors General/ Directors General (All)

Madam / Sir,

**Sub: Clarification in respect of input tax credit availed by electronic commerce operators where services specified under Section 9(5) of Central Goods and Services Tax Act, 2017 are supplied through their platform -reg.**

Reference is invited to Circular No. 167/23/2021 – GST dated 17.12.2021 which clarified that electronic commerce operators (hereinafter referred to as “ECOs”) required to pay tax under section 9(5) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) are not required to reverse input tax credit (ITC) in respect of supply of restaurant services through their platform (notified services under section 9(5)). In this regard, representations have been received seeking clarification regarding requirement of reversal of ITC, if any, in respect of supply of services, other than restaurant services, under section 9(5) of CGST Act.

2. The issue has been examined and to ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, hereby clarifies the issue as below:

<b>S. No.</b>	<b>Issue</b>	<b>Clarification</b>
1.	Whether electronic commerce operator, required to pay tax under section 9(5) of CGST Act, is liable to reverse proportionate input tax credit on his inputs and input services to the extent of supplies made under section 9(5) of the CGST Act.	<p>1. ECO, required to pay tax under section 9(5) of CGST Act, is making supplies under two counts:</p> <ol style="list-style-type: none"> <li>Supplies notified under section 9(5) of CGST Act for which he is liable to pay tax as if he is the supplier of the said services.</li> <li>Supply of his own services by providing his electronic platform for which he charges platform fee /commission etc. from the platform users.</li> </ol> <p>2. For providing the services mentioned at 1(ii) above, the ECO procures inputs as well as input services for which he avails Input Tax Credit.</p> <p>3. It has been clarified vide question no. 6 of Circular No. 167/23/2021 – GST dated 17.12.2021 that the ECO shall not be required to reverse input tax credit on account of restaurant services on which he pays tax under section 9(5) of the CGST Act. It has also been clarified that the input tax credit will not be allowed to be utilized for payment of tax liability under section 9(5) and whole of the tax liability under section 9(5) will be required to be paid in cash.</p> <p>4. The principle, which has been outlined in question no. 6 of Circular No. 167/23/2021 – GST dated 17.12.2021, also applies to the supplies made in respect of other services specified under section 9(5) of CGST Act.</p> <p>5. In view of this, it is clarified that Electronic Commerce Operator, who is liable to pay tax under section 9(5) of the CGST Act in respect of specified services, is not required to reverse the input tax credit on his inputs and input services proportionately under section 17(1) or section 17(2) of CGST Act to the extent of supplies made under section 9(5) of the CGST Act.</p> <p>6. It is further clarified that ECO will be required to pay the full tax liability on account of supplies under section 9(5) of the CGST Act only through electronic cash ledger. The credit availed by him in relation to the inputs and input services used to facilitate such supplies cannot be used for discharge of such tax liability under section 9(5) of the CGST Act. However, such credit can be utilized by him for discharge of tax liability in respect of supply of services on his own account.</p>

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

**(Sanjay Mangal)**

Principal Commissioner (GST)

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**B.3 Circular No. 241/35/2024-GST ; dated 31.12.2024**

To,

The Principal Chief Commissioners/ Chief Commissioners of Central Tax (All)

The Principal Directors General/ Directors General (All)

Madam / Sir,

**Subject: Clarification on availability of input tax credit as per clause (b) of sub-section (2) of section 16 of the Central Goods and Services Tax Act, 2017 in respect of goods which have been delivered by the supplier at his place of business under Ex-Works Contract-reg.**

Reference has been received from automobile sector seeking clarification on availability of input tax credit (hereinafter referred to as “ITC”) as per clause (b) of sub-section (2) of section 16 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) in respect of goods which have been delivered by the supplier at his place of business under Ex-Works Contract.

1.2 It has been stated that in automobile sector, the contract between the automobile dealers and the Original Equipment Manufacturers (OEMs) is generally an Ex-Works (EXW) contract, and as per the terms of the contract, the property in goods (i.e. vehicles) passes to the dealer at the factory gate of the OEM, when the goods are handed over to the transporter at the instance of the dealer, and the delivery on the part of the OEM is complete at his factory gate. The transport may be arranged by the OEM on behalf of the dealer and where insurance is arranged, it may also be done on behalf of the dealer. Any claim in case of loss has to be lodged by the dealer. The dealer also duly accounts for the invoice in his books of accounts on such delivery of the vehicles at the factory gate of the OEM. The dealer avails ITC on the date the vehicles are billed to him and handed over to the transporter by the OEM at his factory gate. However, some field formations are taking a view that ITC can be availed by the dealer only after the vehicles are physically received by him at his business premises and show cause notices have been issued to a number of dealers, demanding tax for wrongful availment of ITC for contravention of provisions of clause (b) of sub-section (2) of section 16 of the CGST Act.

2. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the CGST Act, hereby clarifies the issue as below.

3. Sub-section (2) of section 16 of the CGST Act is a non-obstante clause to section 16 of the CGST Act which enlists the conditions, failing which the registered person is not entitled to ITC in respect of supply of goods or services or both. One of the conditions as per clause (b) of the said sub-section (reproduced below) is that a registered person is not entitled to claim ITC in respect of any supply of goods or services or both unless he has “received” the said goods or

services or both. The Explanation to the said clause provides for deemed receipt of goods and services in certain scenarios.

***“Section 16. Eligibility and conditions for taking input tax credit.***

...

(2) *Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, -*

...

(b) *he has **received** the goods or services or both.*

*Explanation.- For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-*

(i) *where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;*

(ii) *where the services are provided by the supplier to any person on the direction of and on account of such registered person;*

...”

3.1 From a plain reading of the clause (b) of sub-section (2) of section 16 of the CGST Act, it is quite apparent that there is no reference of any particular place where goods are required to be “received” by the registered person. This is in contrast to the erstwhile Central Excise regime, where the provisions contemplated physical receipt of the goods at the factory of the manufacturer for taking CENVAT credit on the said goods. In most of the State VAT Acts, the provisions related to credit of the input tax did not have any explicit mention of physical receipt of goods at any particular place and input tax credit was allowed on purchase of goods.

3.2 Explanation to clause (b) of sub-section (2) of section 16 of the CGST Act provides that the goods would be deemed to have been “received” by the registered person for the purpose of this clause, where:

- a) the goods are delivered by the supplier to a recipient or to any other person on the direction of such registered person, whether acting as an agent or otherwise;
- b) such direction may be given before or during movement of goods; and
- c) the goods may be delivered either by way of transfer of documents of title to goods or otherwise.

3.2.1 The said Explanation provides that where goods are delivered by the supplier to any other person, whether acting as an agent or not, upon the direction of the registered person, and where such delivery occurs either through transfer of documents of title to goods or otherwise, the registered person is deemed to have “received” such goods for the purpose of the clause (b) of sub-section (2) of section 16 of CGST Act. Accordingly, in cases where goods are delivered by the supplier to the registered person, either directly or to any other person on the directions of the said registered person, the registered person shall be considered to have “received” the said goods for the purpose of clause (b) of sub-section (2) of section 16 of CGST Act.

3.3 In the instant case, as per the terms of the EXW contract between the dealer and the OEM:

- a) the goods are being handed over by the OEM to the transporter at his factory gate for onward transmission to the dealer;
- b) transport is arranged by OEM on the behalf of dealer; and
- c) if insurance is arranged, it is done on the behalf of dealer and any claim in case of loss has to be lodged by the dealer.

3.3.1 In such a scenario, the property in the said goods can be considered to have been passed on to the dealer by the OEM upon handing over of the said goods to the transporter at his factory gate, meaning thereby that the goods can be considered to have been delivered to the registered person (the dealer), through the transporter, by the supplier (the OEM) at his factory gate and the supply of the said goods can be considered to have fructified at the factory gate of the OEM, even though the goods may be physically received by the registered person (the dealer) after the transit period. Accordingly, it is clarified that as per Explanation to clause (b) of sub-section (2) of section 16 of CGST Act, the registered person (the dealer) can be considered to have “received” the said goods at the time of such handing over of the goods by the supplier to the transporter, at his factory gate, for their onward transmission to the said registered person (the dealer).

3.4 The same principle is applicable in respect of supply of other goods also where the contract between the supplier and recipient is an EXW contract, and as per terms of the contract, the goods are to be delivered by the supplier to the recipient, or to any other person (including a transporter) on behalf of the recipient, at his (supplier’s) place of business and the property in the goods stands transferred to the recipient at the time of such handing over. In such cases, the said goods can be construed to have been “received” by the said recipient at the time of handing over the said goods to the recipient or to the transporter, as the case may be, as per provisions of clause (b) of sub-section (2) of section 16 of CGST Act.

3.5 It is also mentioned that as per provisions of sub-section (1) of section 16 of the CGST Act, a registered person is entitled to input tax credit only in respect of supply of goods or services or both, **which is used or intended to be used in the course or furtherance of business**. Therefore, the input tax credit may be available to the registered person on such receipt of goods by the said registered person from the supplier at his (supplier’s) factory gate or business premises, subject to fulfilment of other conditions of section 16 and section 17 of CGST Act, including the condition that the said goods are used or intended to be used in the course or furtherance of business by the said registered person.

3.6 It is also to be noted that if the goods are found to have been diverted for non-business purposes at any stage, either before physically receiving the said goods at his business premises or subsequently, the registered person shall not be entitled to input tax credit on such goods in terms of sub-section (1) of section 16 of CGST Act. Further, if at any time after “receiving” the goods, such goods are lost, stolen, destroyed, written off or disposed of by way of gift or free samples, the registered person would not be entitled to the input tax credit in respect of such goods as per provisions of clause (h) of sub-section (5) of section 17 of CGST Act.

4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

5. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal)

Principal Commissioner (GST)

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**B.4 Circular No. 242/36/2024-GST ; dated 31.12.2024**

To,

The Principal Chief Commissioners/ Chief Commissioners of Central Tax (All)

The Principal Directors General/ Directors General (All)

Madam / Sir,

**Sub: Clarification on place of supply of Online Services supplied by the suppliers of services to unregistered recipients-reg.**

References have been received from field formations regarding non-compliance of provisions of mandatory recording of correct place of supply on the invoices by the suppliers in respect of online services provided by them, either themselves or through electronic commerce operators, to unregistered recipients due to wrong interpretation of provisions of section 12(2)(b) of Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as “IGST Act”) read with rule 46 of Central Goods and Services Rules, 2017 (hereinafter referred to as “CGST Rules”). It has also been mentioned that though in such cases of taxable online supplies of services to unregistered recipients, registered suppliers are required to mention State name of the recipient on the invoice, irrespective of the value of such supply, and declare place of supply of such services as the State of the recipient as per the provisions of clause (i) of section 12(2)(b) of IGST Act but many suppliers are not recording the State name of the unregistered recipient on the invoice and are declaring place of supply of such services as the location of the supplier as per clause (ii) of section 12(2)(b) of IGST Act. This is resulting in wrong declaration of place of supply, resulting in flow of revenue in respect of the said supply to the wrong State. Request has been made to clarify the issue so as to ensure correct declaration of place of supply by the suppliers of such services to unregistered recipients.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Act, 2017 (hereinafter referred to as “CGST Act”) hereby issues the following clarification.

**3. Legislative provisions:**

3.1 As per sub-section (17) of section 2 of the IGST Act, ‘online information and database access or retrieval services’ means:

*“services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply impossible to ensure in the absence of information technology and includes electronic services such as,—*

*(i) advertising on the internet;*

- (ii) *providing cloud services;*
- (iii) *provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;*
- (iv) *providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;*
- (v) *online supplies of digital content (movies, television shows, music and the like);*
- (vi) *digital data storage; and*
- (vii) *online gaming, excluding the online money gaming as defined in clause (80B) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017);”*

3.2 The term ‘electronic commerce’ has been defined under section 2(44) of CGST Act, as follows:

*“electronic commerce” means the supply of goods or services or both, including digital products over digital or electronic network;*

3.3 The term ‘electronic commerce operator’ has been defined under section 2(45) of CGST Act, as follows:

*“electronic commerce operator” means any person who owns, operates or manages digital or electronic facility, or platform for electronic commerce;*

3.4 Sub-section (2) of section 12 of the IGST Act, reads as follows:

*“(2) the place of supply of services, except the services specified in sub- section (3) to (14),-*

*(a) made to a registered person shall be the location of such person;*

*(b) made to any person other than a registered person shall be, -*

*(i) the location of the recipient where the address on record exists; and*

*(ii) the location of the supplier of services in other cases.”*

3.5 As per sub-section (2) of Section 31 of the CGST Act,

*“(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars **as may be prescribed.**”*

3.6 Rule 46 of CGST Rules provides as below:

*“46. Subject to rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely,-*

*...*

*(f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is unregistered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice;*

***Provided that in cases involving supply of online money gaming or in cases that where any taxable service is supplied by or through an electronic commerce***

*operator or by a supplier of online information and database access or retrieval services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name of the State of the recipient and the same shall be deemed to be the address on record of the recipient;*

.....”

#### 4. Clarification:

4.1 Section 12 of the IGST Act provides that except in cases specified in sub-sections (3) to (14) of the said section, when the services are supplied to a registered person, the place of supply of services shall be the location of the recipient and **when the services are supplied to an unregistered person, the place of supply of the said services shall be the location of the recipient, if his address is available on record**, and shall be the location of the supplier, if the address is not available on record.

4.2 Section 31(2) of the CGST Act provides that a registered person providing taxable services must issue a tax invoice with details like the service description, value, tax charged and such other **particulars as may be prescribed**.

4.3 Rule 46 of CGST Rules provides the particulars required to be mentioned on the tax invoice. Clause (f) of the said rule provides for mentioning some details on the invoice in case of supplies made to unregistered recipient. Further, proviso to clause (f) of rule 46 of the CGST Rules provides that in cases involving the supply of online money gaming or involving supply of any taxable services by or through an electronic-commerce operator or by a supplier of online information and database access or retrieval services, to an unregistered recipient, irrespective of the value of the said supply, the tax invoice issued by the registered supplier must contain the recipient's State name. It has also been provided in the said proviso that such State name shall be deemed to be the address on record of the recipient.

4.4 A conjoint reading of clause (b) of sub-section (2) of Section 12 of the IGST Act, sub-section (2) of Section 31 of the CGST Act and proviso to rule 46(f) of CGST Rules leads to a conclusion that in respect of supply of services made to unregistered persons, irrespective of the value of the said supply, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice, in cases involving supply of online money gaming or supply of taxable services by or through an electronic commerce operator or supply of online information and database access or retrieval (OIDAR) services. Recording of the name of State of the unregistered recipient on the tax invoice in respect of such supply of services shall be deemed as the address on record of the recipient for the purpose of determination of place of supply of the said services under section 12(2)(b) of IGST Act. Accordingly, in such cases, the place of supply of such services shall be considered as the location of the recipient of the services as per provisions of clause (i) of section 12(2)(b) of IGST Act.

4.5 It is also observed that a combined reading of the definitions of ‘electronic commerce’ and ‘electronic commerce operator’ as per section 2(44) and section 2(45) of CGST Act, along with rule 46(f) of CGST Rules, leads to an understanding that all services supplied to unregistered recipients over digital or electronic network, either by the supplier using his own digital or electronic facility / platform or through any other electronic or digital platform owned and operated by an independent electronic commerce operator, will be covered under proviso to rule 46(f) of CGST Rules.



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4.5.1 It is, accordingly, clarified that provisions of proviso to rule 46(f) of CGST Rules shall be applicable in respect of all the online supplies of services supplied to an unregistered recipient, in addition to the supply of online money gaming and OIDAR services. Some of the examples of such services are subscription of e-newspapers and e-magazines, online subscription of entertainment services (e.g. OTT platforms), online telecom services, digital services through mobile applications etc. Therefore, in respect of supply of any such online/digital services, OIDAR services and online money gaming to unregistered recipients, the suppliers are mandatorily required to record the name of the State of the recipient on the tax invoice, irrespective of the value of supply of such services, and to declare place of supply of the said services as the location of the recipient (based on the name of State of the recipient) in their details of outward supplies in FORM GSTR-1/1A.

4.5.2 For the purpose of recording the name of the State of the recipient on tax invoice in respect of such supplies made to unregistered persons for such online services, supplier should devise suitable mechanism to ensure collection of such details from unregistered recipient before making any supplies to him. As mentioned above, in such cases, the name of the State of the recipient so recorded shall be deemed to be the address of recipient available on record and thus, for determining place of supply of the said services, provisions of section 12(2)(b)(i) of IGST Act will be applicable as per which the place of supply shall be the location of the recipient.

4.5.3 It is also mentioned that if the supplier fails to issue invoice in accordance with the said provisions by not recording correct mandatory particulars, including recording of name of State of unregistered recipient in respect of such supplies, he may be liable to penal action under the provisions of section 122(3)(e) of CGST Act.

5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

6. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board. Hindi version would follow.

**(Sanjay Mangal)**

Principal Commissioner (GST)

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**B.5 Circular No. 243/37/2024-GST ; dated 31.12.2024**

To,

The Principal Chief Commissioners/ Chief Commissioners of Central Tax (All)

The Principal Directors General/ Directors General (All)

Madam / Sir,

**Subject: Clarification on various issues pertaining to GST treatment of vouchers - reg.**

References have been received from the trade and industry as well as the field formations seeking clarity on various issues with respect to vouchers such as whether transactions in voucher are a supply of goods and/or services, whether GST is leviable on trading of vouchers by distributor/sub-distributor and whether unredeemed vouchers (breakage) are taxable. It has been represented that the field formations are taking different views on these issues leading to ambiguity and litigations.

2. Accordingly, in view of the difficulties being faced by the trade and industry and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues, as below.

3. **Issue 1 -Whether “transactions in vouchers” falls under the category of supply of goods and/or services?**

3.1 The relevant legal provisions of CGST Act, 2017 are as under:

(i) Section 2(52) - “goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

(ii) Section 2(102) - “services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged.

*Explanation.* - For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities.

(iii) Section 2(118) — “voucher” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.

(iv) Section 2(75) — “money” means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognized by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

(v) Section 2(1) – “actionable claim” shall have the same meaning as assigned to it in Section 3 of the Transfer of Property Act, 1882 (4 of 1882).

Section 3 of the Transfer of Property Act, 1882 provides the definition of “actionable claim” as below: -

““actionable claim” means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent;”

(vi) Section 2(102A) — “specified actionable claim” means the actionable claim involved in or by way of-(i) betting;(ii) casinos;(iii) gambling; (iv)horse racing; (v)lottery; or

(vi) *online money gaming*”.

(vii) *Section 7-*

“ ....

(2)- *Notwithstanding anything contained in sub-section (1), -*

(a) *activities or transactions specified in Schedule III; or*

...

*shall be treated neither as a supply of goods nor a supply of services.”*

(viii) *Schedule III to the CGST Act deals with “Activities or Transactions which shall be treated neither as a supply of Goods nor a supply of services:*

....

6. *Actionable claims, other than specified actionable claims.*

... ”

3.2 From the definition of voucher under section 2(118) of CGST Act, it emerges that “voucher” may be in nature of payment instrument which creates an obligation on the supplier to accept it as a consideration or part consideration for the supply of goods and/or services. The issuance of payment instruments, including pre-paid instruments, in India is regulated by Reserve Bank of India (RBI) in terms of the Payment and Settlement Act, 2007, RBI’s Master Directions and the relevant Notifications/Circulars/Communications issued by the RBI from time to time.

3.3 Pre-paid instruments (PPIs) as defined by RBI are payment instruments that facilitate purchase of goods and/or services against the value stored on such instruments. The value stored on such instruments represents the value paid for by the holder, by cash, by debit to a bank account, or by credit card. The pre-paid instruments can be issued as cards, wallets and in any such form/instrument which can be used to access the PPI and to use the amount therein. Further, as per section 2(75) of CGST Act, “money” includes an instrument recognized by the Reserve Bank of India which is used as a consideration to settle an obligation.

3.4 On combined reading of the definition of “voucher” as per section 2(118) of the CGST Act, along with definition of “money” as per section 2(75) of the CGST Act and the description of “pre-paid instruments” given by RBI, it emerges that where the voucher is covered as a pre-paid instrument recognized by the RBI and is used as a consideration to settle an obligation, then in such cases, the voucher will fall under the definition of “money”. In such a case, as “money” is excluded from the definition of goods and services as provided in section 2(52) and section 2(102) of the CGST Act respectively, the transactions in voucher would be considered neither as a supply of goods nor as a supply of services.

3.5. In cases, where voucher is not covered as a pre-paid instrument recognized by RBI and hence, cannot be treated as money, the voucher will be in nature of an obligation on the supplier to receive it as consideration or part consideration and assure the beneficiary/voucher holder to claim certain goods and/or services as specified on the voucher or in the related documents. In such cases, the voucher can be considered as an “actionable claim” within the meaning of section 2(1) of the CGST Act, read with section 3 of the Transfer of Property Act, 1882.

3.6 Further, as per entry 6 of Schedule III of CGST Act, an activity or transactions of actionable claims, other than specified actionable claims, is to be treated neither as a “supply of goods” nor as a “supply of services”. Further as per section 2(102A) of CGST Act, specified actionable claim means the actionable claim involved in or by way of betting, casinos, gambling, horse racing, lottery or online money gaming. As vouchers are not covered under definition of specified actionable claim, it appears that they are covered in entry 6 of Schedule III of CGST Act as actionable claims, other than specified actionable claims. Therefore, it appears that even in such a case, transaction in vouchers would be treated neither as a “supply of goods” nor as a “supply of services”.

3.7 Therefore, it is clarified that irrespective of whether voucher is covered as a pre-paid instrument recognized by RBI or not, the voucher is just an instrument which creates an obligation on the supplier to accept it as consideration or part consideration and the transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services. However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.

**Issue 2 -What would be the GST treatment of transactions in vouchers by distributors/ sub-distributors/ agents etc.?**

4.1 There are primarily two models for distribution of vouchers through distributors/ sub distributors/ agents, etc.

- (i) Where vouchers are distributed through the distributors/ sub-distributors/ dealers on Principal-to-Principal (P2P) basis.
- (ii) Where vouchers are distributed using agents/ distributors/ sub-distributors on commission/ fee basis.

**4.2 Where vouchers are distributed through the distributors/ sub-distributors/ dealers on Principal-to-Principal (P2P) basis:** In such cases, the distributor/ dealer purchases voucher from the voucher issuer typically at a discounted rate and subsequently sells the same to the sub-distributors, corporates or end customers and generate revenue through a trading margin, which is a difference between the acquisition cost and the selling price of the vouchers by the said distributor/ dealer. In such cases, distributors/ dealers (including sub-distributors) own the vouchers and operate autonomously with full control over the process from purchase to the final sale of the vouchers to the end user.

4.2.1 As per section 9 (1) of CGST Act, GST is chargeable on the supply of goods and/or services. As the transaction in vouchers is neither supply of goods nor supply of services, therefore, pure trading of vouchers in this case would not constitute either supply of goods or supply of services. Accordingly, such trading of vouchers would not be leviable to GST as per section 9 (1) of CGST Act.

**4.3 Where vouchers are distributed using distributors/ sub-distributors/ agents on commission/ fee basis:** In such cases, the transactions between the voucher issuer and the distributors/ sub-distributors/ agents are on principal-agency basis. These arrangements, as per contract/agreement between distributor/sub-distributor/agents and the voucher issuer may specify a set of obligations on such agents such as marketing & promotion and other related support activities for distribution of vouchers against a commission/fee or any other amount by whatever name called, for such purpose. In such cases, distributors/sub-distributors/agents do

not operate autonomously, do not own the vouchers and only act as agent of the voucher issuer. In such cases, GST would be payable by such distributor/sub-distributor/agent, acting as an agent of the voucher issuer, on the commission/fee or any other amount by whatever name called, for such purpose, as a supply of services to the voucher issuer.

**Issue 3 -What would be GST treatment of additional services such as advertisement, cobranding, marketing & promotion, customization services, technology support services, customer support services etc.**

5.1 There may be cases where additional services such as advertisement, co-branding, customization services, technology support services, customer support services, etc. are provided by either the distributor/ sub-distributor or by another person to the voucher issuer against a service fee/ service charge/ affiliate charge or any other amount, by whatever name called, as per contract/agreement between such service provider and the service recipient (voucher issuer). In such a case, the said service fee/ service charge/ affiliate charge or other amount for supply of such additional services to the voucher issuer as per the terms of contract/agreement, would be liable to GST at the applicable rate in the hands of the said service provider.

**Issue 4 -What would be the GST treatment of unredeemed vouchers (breakage).**

6.1 Sometimes, vouchers remain unused/ unredeemed at the end of their expiry period. In such cases, the businesses generally make book adjustments and account the said amount on account of unredeemed vouchers in their statement of income. The value of such unredeemed vouchers accounted for in the statement of income is called breakage. There are ambiguities and doubts in respect of GST treatment of such breakage. Also, doubts are raised whether the amount attributed to the unredeemed voucher(breakage) can be considered as **”monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person”**.

6.2 As per section 9 (1) of the CGST Act, GST is leviable only on the supply of goods and/or services. In the case of breakage, there is no redemption of voucher and there is no supply of underlying goods and/or services. Therefore, there is no supply of goods and/or services on account of such unredeemed vouchers (breakage). Also, “consideration” under GST is defined under section 2 (31) of CGST Act, in relation to the supply of goods or services or both. As there is no underlying supply of goods and/or services in case of non-redemption of vouchers by the customer, the amount retained for unredeemed vouchers by the voucher issuer cannot be construed as consideration for any supply. Accordingly, such amount attributable to unredeemed vouchers (breakage) would not be taxable as per the provisions of section 9(1) of CGST Act.

6.3 Further, Circular No. 178/10/2022-GST dated 03.08.2022 clarifies that agreement to do or refrain from an act should not be presumed to exist, and that there must be an express or implied agreement, oral or written, to do or abstain from doing something against payment of consideration, for a taxable supply to exist. Considering the principle laid out in the said circular, it emerges that where the voucher is issued for the purpose of redemption in respect of a supply of goods and/or services and there is no express or implied agreement, oral or written, between the issuer of voucher and redeemer for payment of any amount or charges by the redeemer to the voucher issuer in case of non-redemption of the voucher, it cannot be considered that non-redemption of voucher by the redeemer tantamounts to supply of services. Therefore, it appears that the amount attributable to non-redemption of voucher (breakage) would not constitute as

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a "monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person". Therefore, no GST appears to be payable on such amount attributable to non-redemption of voucher (breakage).

7. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

8. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

**(Sanjay Mangal)**  
Principal Commissioner (GST)

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