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# GST – RECENT DEVELOPMENT IN GST (ANALYSIS OF RECENT CIRCULAR AND NOTIFICATIONS ALONG WITH DISCUSSION ON 53 GST COUNCIL MEETING

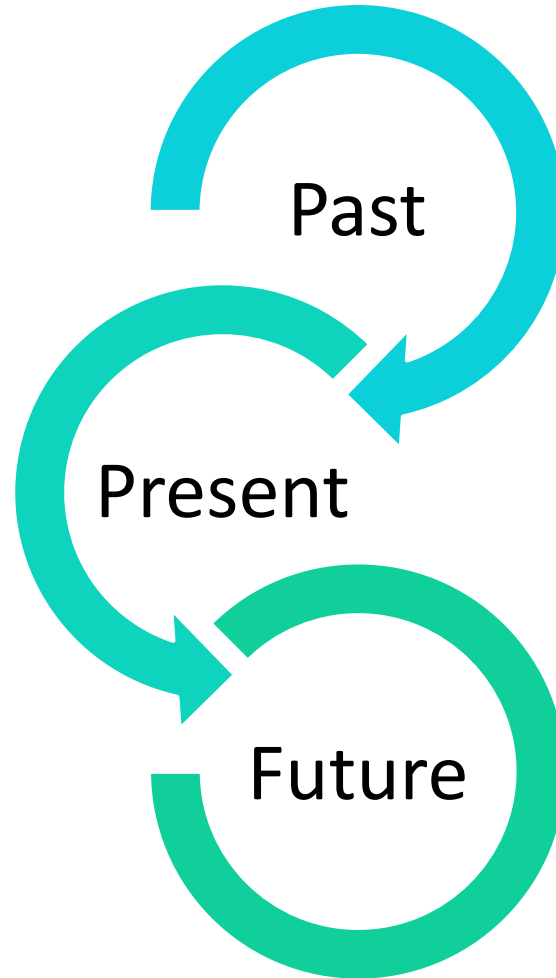
[13.07.2024]

CA VAISHALI KHARDE AND COMPANY ([CAKHARDEVAISHALI@VBKCONSULTANCY.COM](mailto:CAKHARDEVAISHALI@VBKCONSULTANCY.COM))



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# OVERVIEW



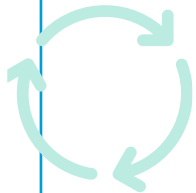
# OVERVIEW



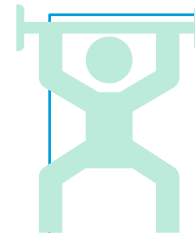
Synopsis of 53<sup>rd</sup> GST Council



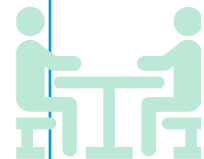
GST Council Meeting - Almost after 8 Months



Supposed to be held in every 3 months



Simplification ??



Reduction in litigation ?

# TO DISCUSS

## 16 Circulars

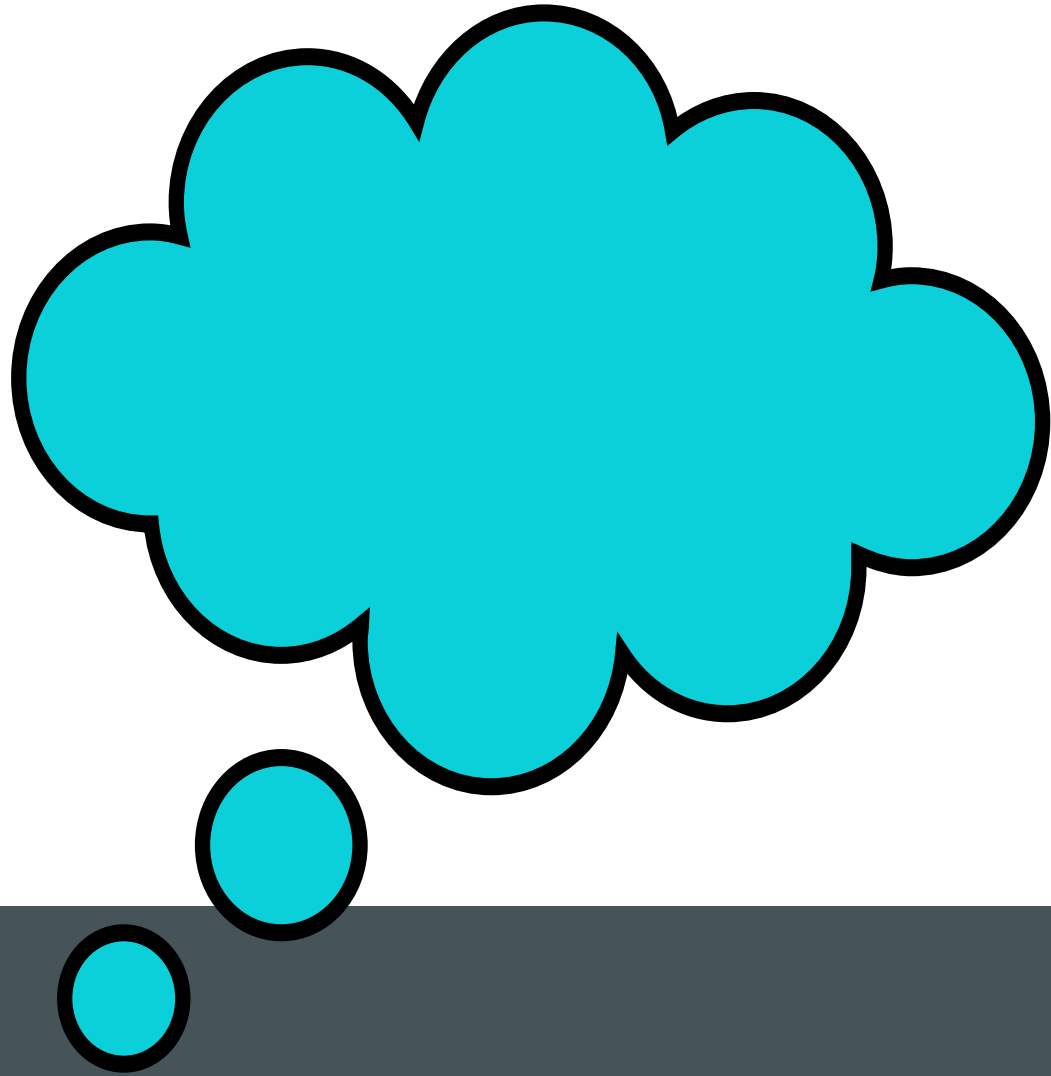
- Applicable to all Taxpayer's
- Industry Specific

## 6 Notifications

## Key Recommendation


- Applicable to all Taxpayer's
- Industry Specific

## Key Legal Pronouncements

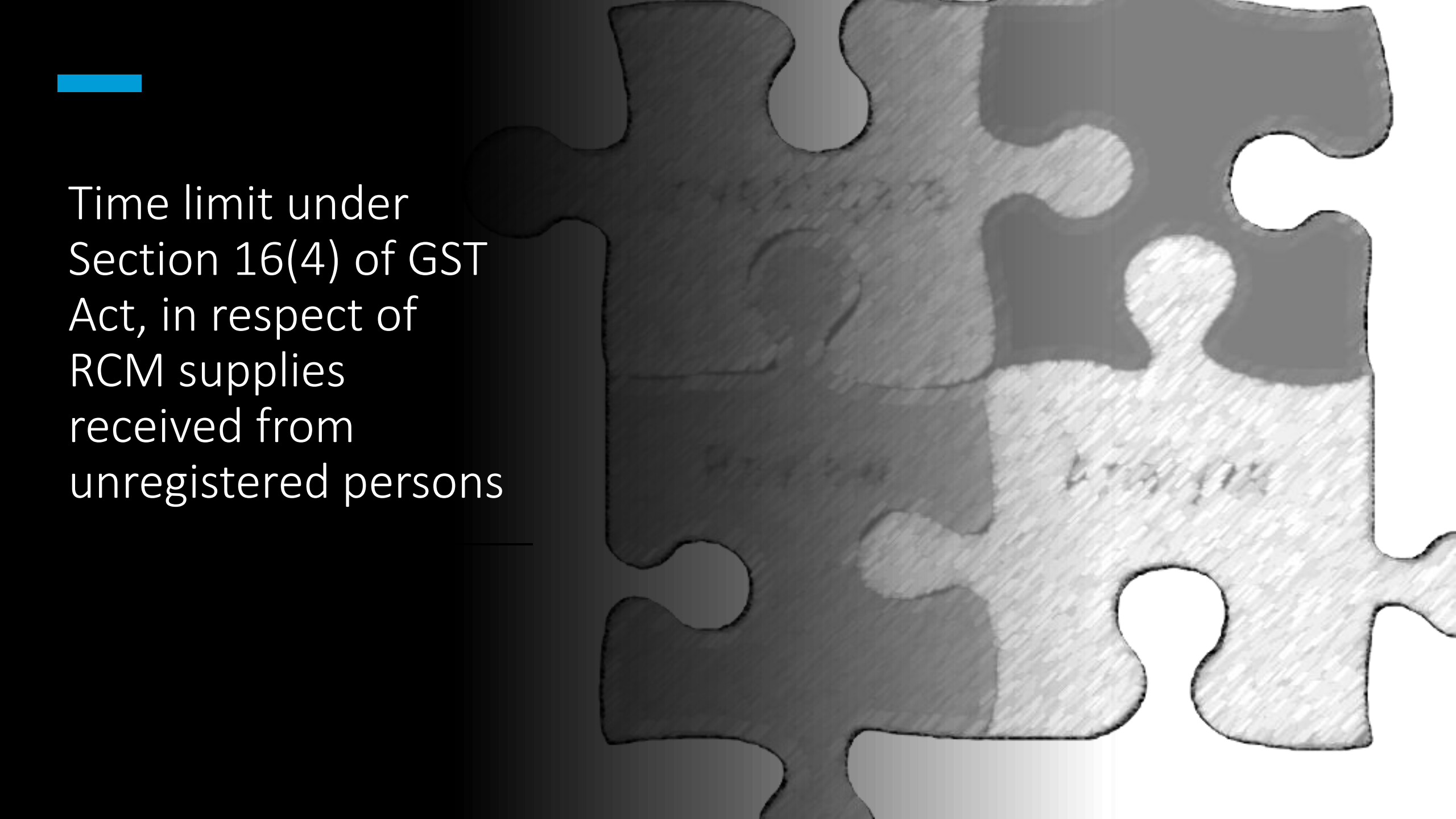


CLARIFICATION

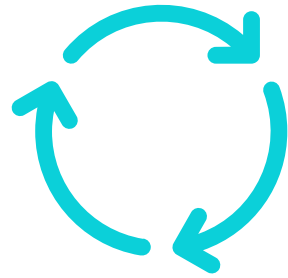
APPLICABLE TO ALL  
TAXPAYERS



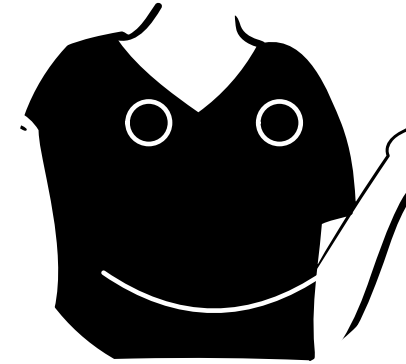
Time limit under  
Section 16(4) of GST  
Act, in respect of  
RCM supplies  
received from  
unregistered persons



# OVERVIEW



[Circular No. 211/5/2024-GST](#)



Applicable to

Time limit under Section 16(4) of CGST Act, in  
respect of RCM supplies received from  
unregistered persons

## RELEVANT LEGAL PROVISIONS

### **Section 16(4) of CGST Act, as amended vide the Finance Act, 2022,**

*“A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after **the thirtieth day of November following the end of financial year to which such invoice or debit note pertains** or furnishing of the relevant annual return, whichever is earlier.”*

### **Section 16(4) of CGST Act, before the said amendment**

*A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after **the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note pertains** or furnishing of the relevant annual return, whichever is earlier.”*

# RELEVANT LEGAL PROVISIONS

## Section 16(2)(a)

Possession of a tax invoice or debit note or such other tax paying documents as may be prescribed

## Section 31(3)(f)

*(f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of [section 9](#) shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;*

# TIME OF SUPPLY OF SERVICES. (SECTION 13 OF THE CGST ACT)

- Receipt of Goods
- Payment
- 30 days form the date of issue of invoice or any document by the supplier
- Not possible as aforesaid – then date of entry in the books

RCM - Goods



- Payment
- 60 days form the date of issue of invoice by the supplier or any Document by the Supplier
- Not possible as aforesaid – then date of entry in the books

RCM - Service



# Time limit under Section 16(4) of CGST Act, in respect of RCM supplies received from unregistered persons

## Clarification

- It is clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid under RCM and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) of CGST Act, the relevant financial year for calculation of time limit for availment of ITC will be the financial year in which the invoice has been issued by the recipient under section 31(3)(f) of CGST Act, subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of section 16 and 17 of CGST Act.
- In case, **the recipient issues the invoice after the time of supply, he will be required to pay interest on such delayed payment of tax.** Further, in cases of such delayed issuance of invoice by the recipient, he may **also be liable to penal action under the provisions of Section 122 of CGST Act.**

## Key Highlights -

Whether clarification is for RCM applicable to both section (i.e. Section 9(3) of the CGST Act and Section 9(4) of the CGST Act.


Whether Interest and/or Penalty is mandatory for eligibility of ITC in case of delayed payment of RCM?

Whether clarification is applicable if supply received from registered person?

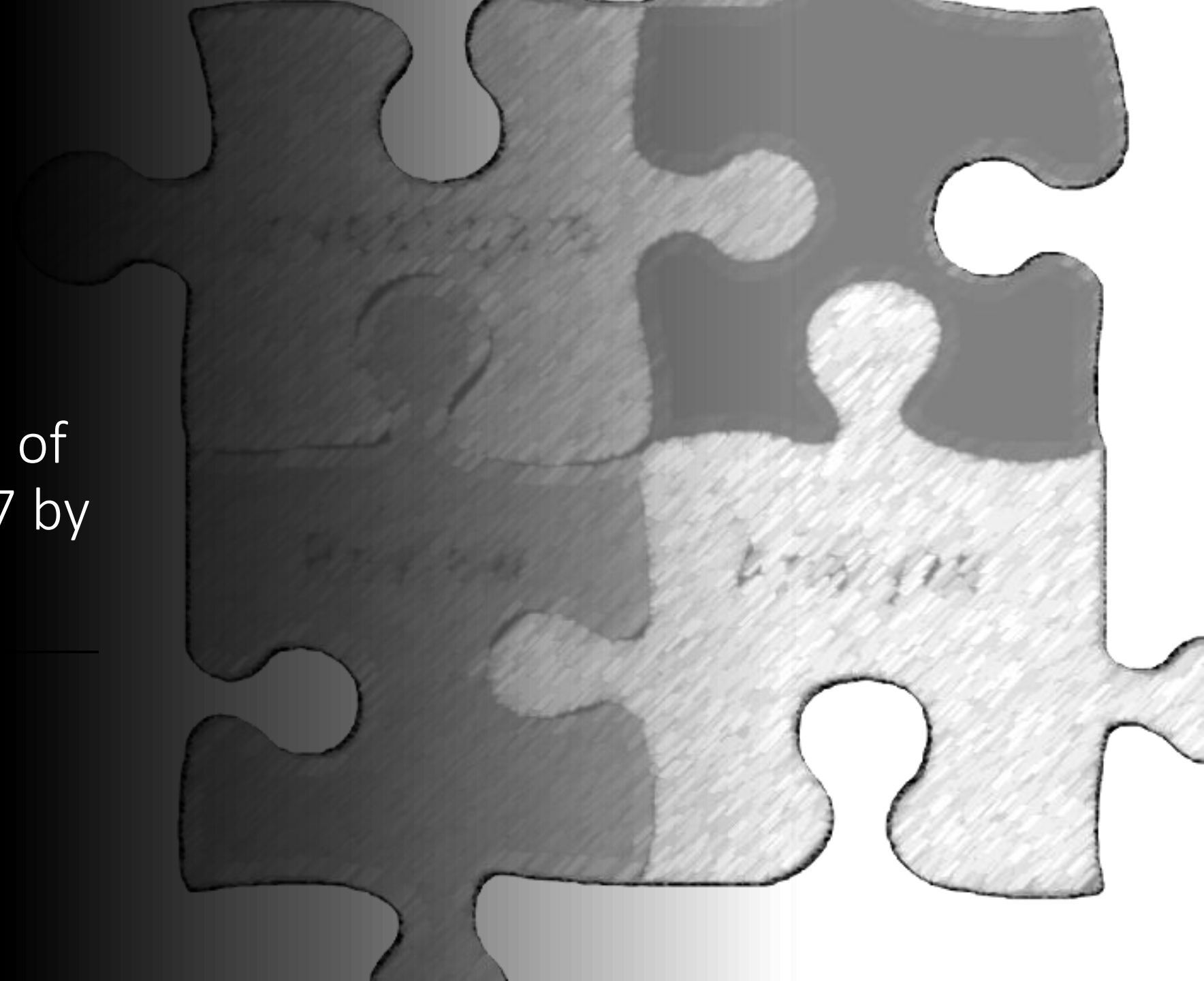
What about availability of ITC with respect to RCM paid for Previous Period?

# Availability of ITC with respect to RCM paid for Previous Period?

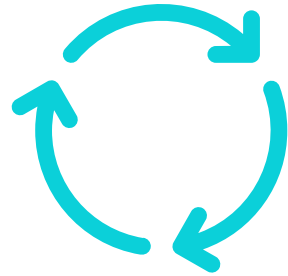
No.	Paid	Methodology by which same Paid	Self Invoice Issued	Notice Issued U/s	ITC Availed in GSTR-3B	Eligibility of ITC
1.	YES	GSTR-3B	YES	73	YES	?
2.	YES	DRC-03	YES	73	No	?
2.	No	-	-	73	-	?
3.	YES	GSTR-3B/DRC-03	YES	74	YES	?
4.	YES	GSTR-3B/DRC-03	No	74	No	?



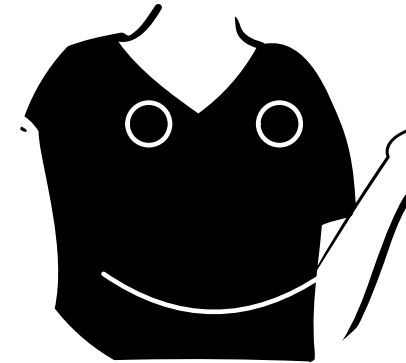
Evidence of  
compliance of  
conditions of  
Section 15(3)(b)(ii) of  
the CGST Act, 2017 by  
the suppliers



# OVERVIEW



[Circular No.-212/6/2024-GST](#)



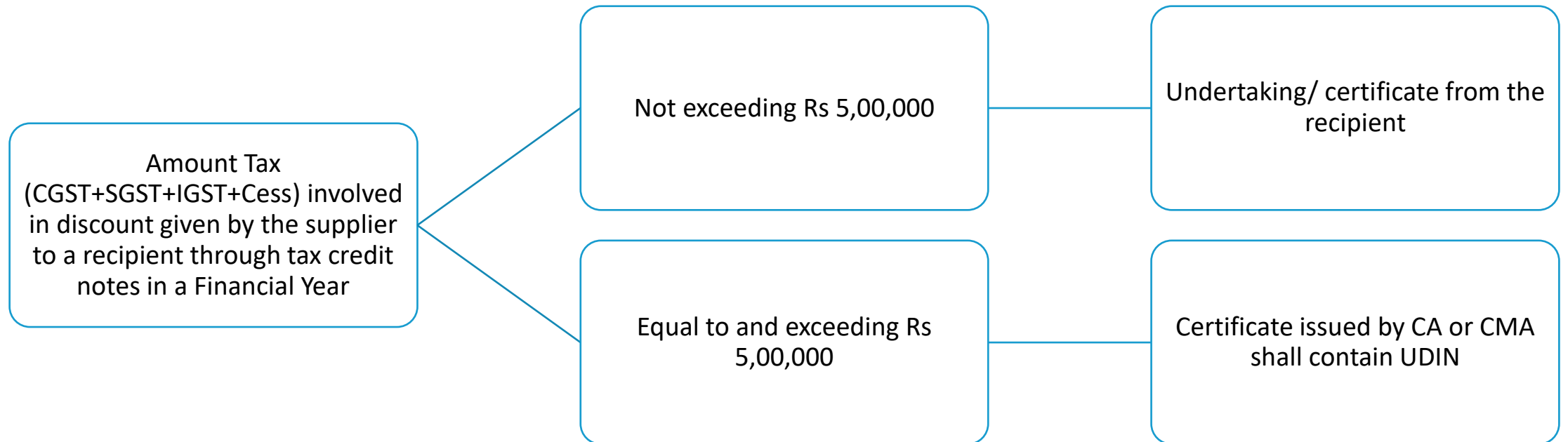
Applicable to  
Evidence of compliance of conditions of  
Section 15(3)(b)(ii) of the CGST Act, 2017 by  
the suppliers

# RELEVANT LEGAL PROVISIONS

Any discount which is given after the supply has been effected shall not be included in the value of the supply, only if it satisfies the following conditions:  
[Section 15(3)(b)]

- Such discount is established in terms of an agreement entered into at or before the time of such supply;
- Such discount must be specifically linked to the relevant invoices
- **ITC attributable to such discount on the basis of document issued by the supplier has been duly reversed by the recipient**

# EVIDENCE OF COMPLIANCE OF CONDITIONS OF SECTION 15(3)(B)(II)



# EVIDENCE OF COMPLIANCE OF CONDITIONS OF SECTION 15(3)(B)(II)

## Content of Certificate and or Declaration

Details of the credit notes,

the details of the relevant invoice number against which the said credit note has been issued,

the amount of ITC reversal in respect of each of the said credit notes


The details of the DRC-03/ return/any other relevant document through which such reversal of ITC has been made by the recipient.

## Key Highlights -

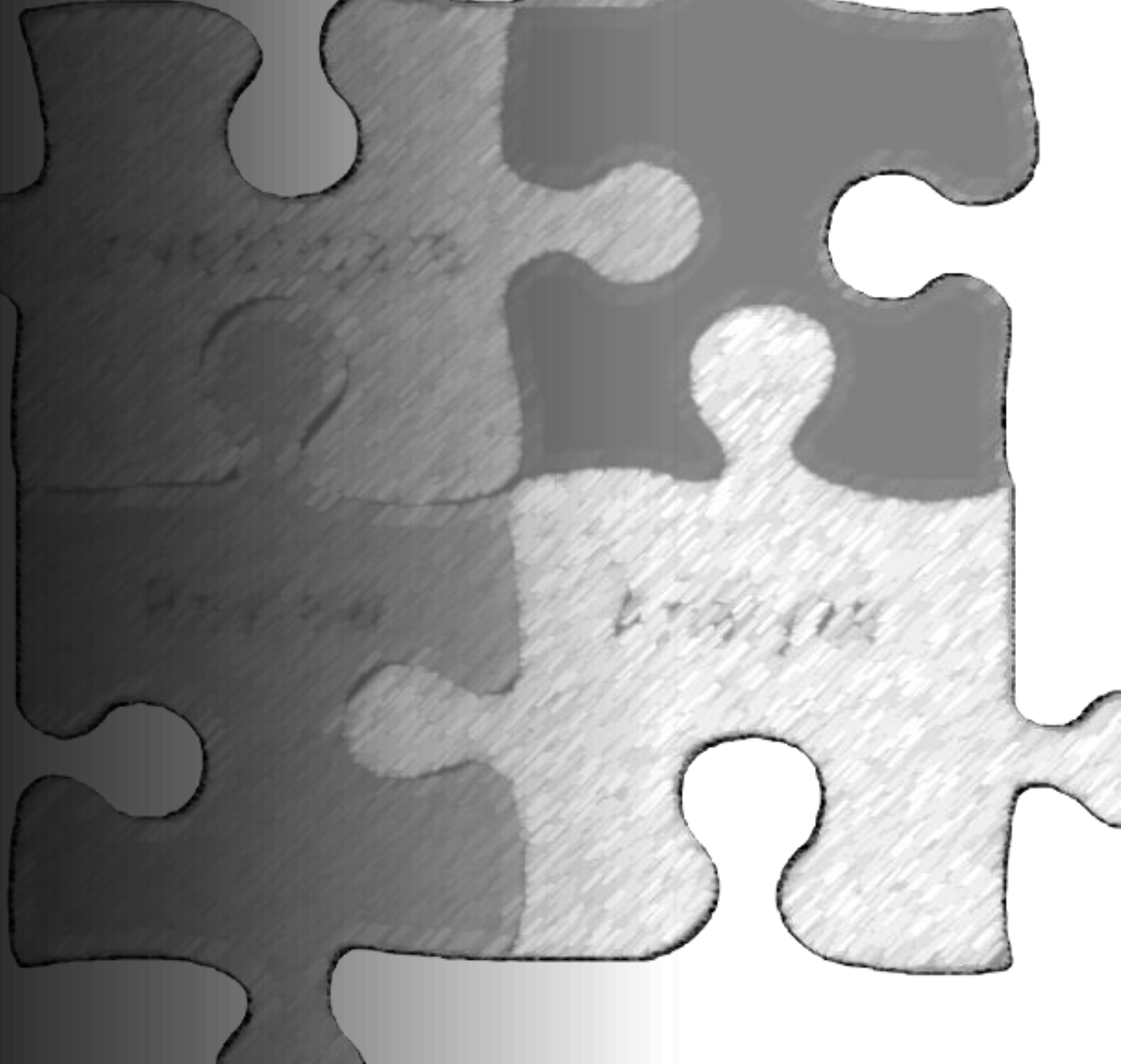
What about Past Period?

What is the frequency at which  
this declaration is to be  
obtained?

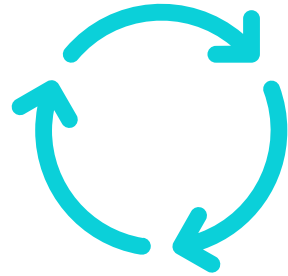
Whether it can be applicable to  
all types of Credit Note Issued?  
Like Credit note issued for  
goods return, Quality issue etc.



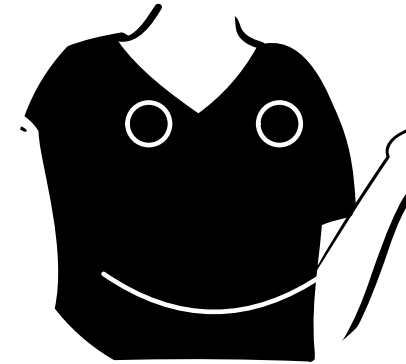
Monetary Limit  
Prescribed for  
Filing An Appeal  
by the  
Department



# OVERVIEW



[Circular No. 207/1/2024-GST](#)



Applicable to

Filing appeals or applications by the  
Department before GSTAT, High Courts and  
Supreme Court

## Legal Provision

### Sec-120 - Appeal not to be filed in certain cases

*120. (1) The Board may, on the recommendations of the Council, from time to time, **issue orders or instructions or directions fixing such monetary limits**, as it may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter.*

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## OBJECT

Reducing unnecessary  
litigation

Providing certainty to  
taxpayers on their tax  
assessment while  
taking a decision  
regarding filing an  
appeal.

# MONETARY LIMIT PRESCRIBED FOR FILING AN APPEAL

Rs. 20 lakh

- GST Appellate Tribunal

Rs. 1 crore

- High Court

Rs. 2 crore

- Supreme Court



## HOW TO DETERMINING MONETARY LIMITS?

Dispute Pertains to demand  
of

- Tax (With or Without interest and /or penalty)
- Interest Only
- Penalty only
- late fee only

Monetary Limit

- The Aggregate of the amount of tax in dispute
- The amount of interest
- the amount of penalty
- The amount of late fee

## HOW TO DETERMINING MONETARY LIMITS?

Dispute  
Pertains to  
demand of

the interest, penalty and/or late fee (Without any tax)  
Erroneous refund

Monetary  
Limit

the aggregate of amount of interest, penalty and late fee  
The amount of refund in dispute

# CIRCUMSTANCES WHERE MONITORY LIMIT NOT APPLICABLE !

In the Circumstances below the decision to file appeal shall be taken on merits irrespective of the said monetary limits

## Where

- Provisions of the Act
- Rules or regulations made under Act
- Any order, notification, instruction, or circular

## Held to be

- Ultra vires to the Constitution of India;
- Ultra vires to the parent Act
- Ultra vires to the Act and rules thereunder

# CIRCUMSTANCES WHERE MONITORY LIMIT NOT APPLICABLE

In the circumstances given below the decision to file appeal shall be taken on merits irrespective of the said monetary limits

- Where the matter is related to
  - a. Valuation of goods or services; or
  - b. Classification of goods or services; or
  - c. Refunds; or
  - d. Place of Supply; or
  - e. Any other issue,
    - Which is recurring in nature and/or involves interpretation of the provisions of the Act /the Rules/ notification/circular/order/instruction etc; or

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# CIRCUMSTANCES WHERE MONITORY LIMIT NOT APPLICABLE

Where strictures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers; or

Any other case or class of cases, where in the opinion of the Board, it is necessary to contest in the interest of justice or revenue

## KEY HIGHLIGHTS - MONETARY LIMIT PRESCRIBED FOR FILING AN APPEAL

Whether It will aid in reducing litigation?

What are the cases it could cover?


What about previous appeals filed by the Department? Will the monetary limit also apply to them?

Whether it can be presumed that the Department has accepted contention only if Appeal not filed only on account of monetary limit

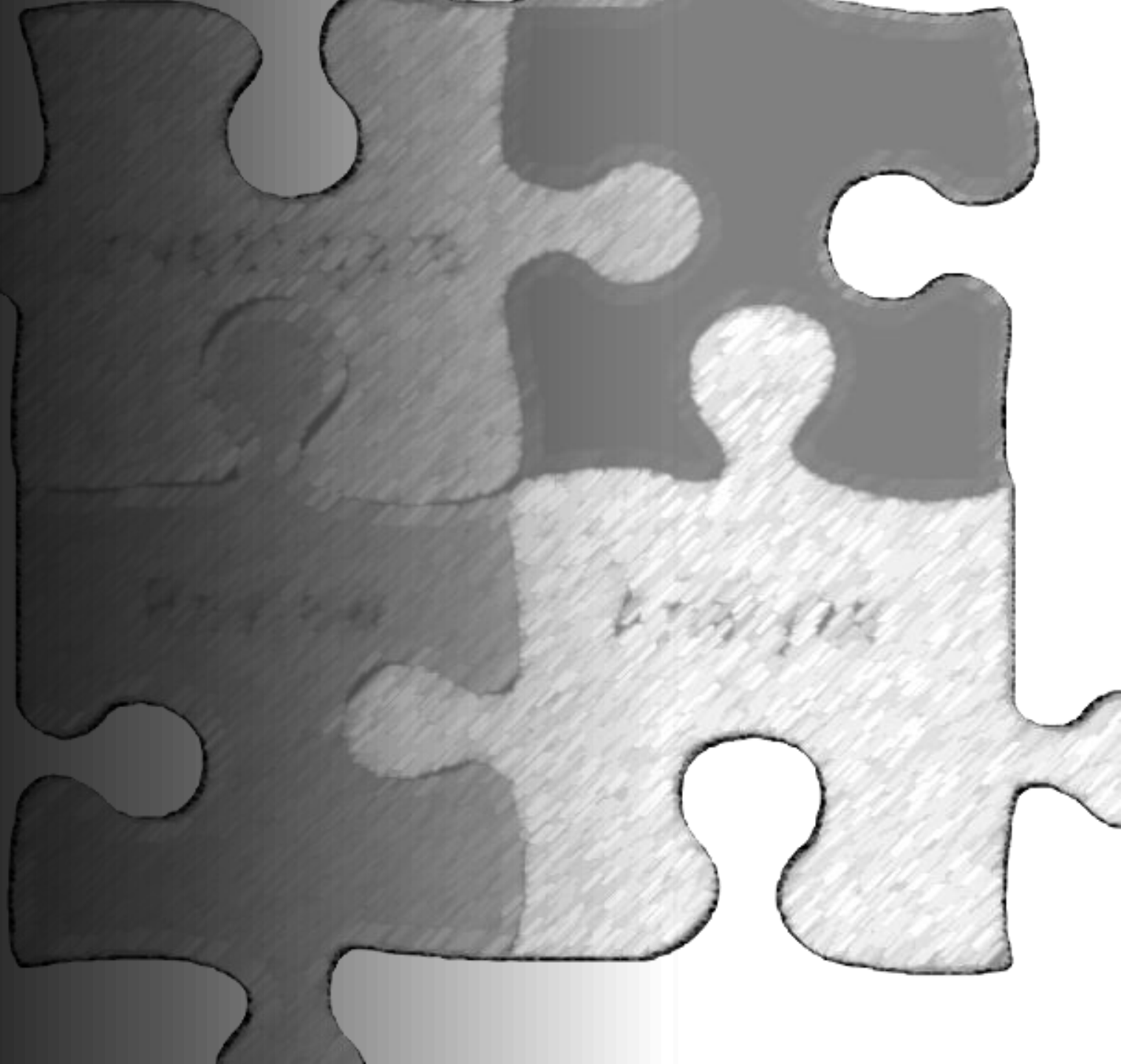
## KEY HIGHLIGHTS - MONETARY LIMIT PRESCRIBED FOR FILING AN APPEAL

Whether it can be presumed that the Department has accepted contention only if Appeal not filed only on account of monetary limit and whether same can be relied for similar matter for the same taxpayer or in case of any other taxpayers?

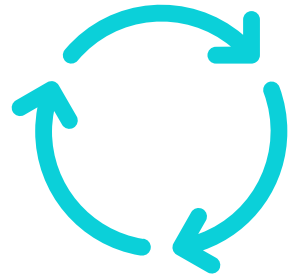
Whether Non-filing of appeal based on monetary limits lead to preclude that the tax officer not allowed to file appeal in any other case involving the same or similar issues?



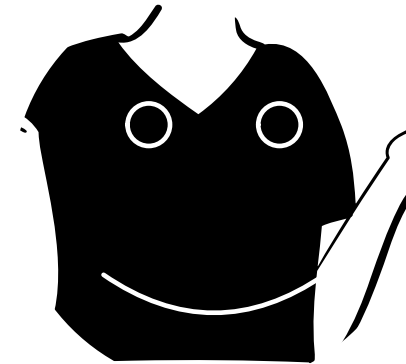
Place of supply of  
goods to unregistered  
persons (particularly  
being supplied  
through e-commerce  
platform)



# OVERVIEW



[Circular No.209/3/2024-GST`](#)



Applicable to supply of goods to unregistered  
persons

# SECTION 10 OF THE IGST ACT

(1) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—

- (a) where the supply **involves movement** of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time **at which the movement of goods terminates for delivery to the recipient**;
- (b).....
- c) where the **supply does not involve movement of goods**, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;
- (ca) where the supply of goods is made to a person **other than a registered person**, the place of supply shall, **notwithstanding** anything contrary contained in clause (a) or clause (c), be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.

*Explanation.—For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person;*

## Amendment Act 2023

1. Inserts 10(1)(ca)
2. NT-02/2023-IT - Notifies 1-10-2023 as date Amendment Act 2023 comes in force


## SECTION 10 OF THE IGST ACT

- According to Rule 46 (e) of CGST Act –
- *“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 un-registered 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.**”*

## Circular No.209/3/2024-GST dated 26<sup>th</sup> June 2024

Clarification where billing address is different from the address of delivery of goods [especially in the context of supply being made through e-commerce platforms

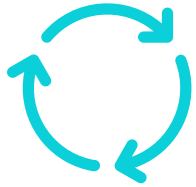
- Place of supply shall be the address of delivery of goods recorded on the invoice



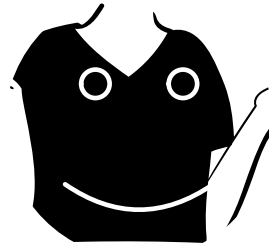
Clarification in  
respect of GST  
liability and ITC  
availability in cases  
involving Warranty/  
Extended Warranty



# OVERVIEW



[Circular No. 216/10/2024-GST](#)



Applicable to  
GST liability and ITC availability  
in cases involving Warranty/  
Extended Warranty



Earlier clarification with  
respect to Warranty  
Circular No. 195/07/2023-GST  
dated 17.07.2023

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## APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY



*Wherever, 'any part,' 'parts' and 'part(s)' has been mentioned in Para 2 of Circular No. 195/07/2023-GST dated 17.07.2023, the same may be read as 'goods or its parts, as the case may be'.*

# APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY

Issue 1

- Whether GST would be payable on such replacement of parts or supply of repair services, without any consideration from the customer, as part of warranty?

Clarification

- **No Additional Consideration – During Warranty Period**
  - No further GST is chargeable on such replacement of parts and/ or repair service during warranty period.
- **Additional Consideration – During Warranty Period**
  - However, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration

## APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY

Issue 2

- Whether the manufacturer is required to reverse ITC in respect of replacement of parts or supply of repair services as part of warranty, in respect of which no additional consideration is charged from the customer?

Clarification

- There is no exempt or free supply as value included in original supply and no need for ITC reversals.

# APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY

Issue 3

- Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?

Clarification

- No consideration charged to the Customer
  - No GST is payable by distributor as no Consideration.
- Additional Consideration is charges
  - If any additional consideration is charged by the distributor from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration

# APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY

Issue 4

- In case of replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer and whether the distributor would be required to reverse the input tax credit in respect of such replacement of parts?

Clarification

- a. Where the distributor replaces parts under warranty by purchase and charges to the manufacturer with a tax invoices
  - GST would be payable by the distributor on the said supply by him to the manufacturer and the manufacturer would be entitled to avail ITC
  - No reversal of ITC by the distributor is required in respect of the same

## APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY

Clarification

- b. Where the distributor replaces parts under warranty via requisition to the Manufacture and then Replaces the part
- GST would not be payable by manufacturer and the manufacturer would be entitled to avail ITC
- No reversal of ITC by the Manufacturer in respect of the same

## APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY

Clarification

- C. Where the distributor replaces parts under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced subject to provisions section 34 (2) of the CGST Act
- Tax liability may be adjusted by the manufacturer, subject to the condition that the said distributor has reversed the ITC availed against the parts so replaced.

# APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY

Clarification  
(inserted via  
Circular No.  
216/10/2024-GST

- d. Where the distributor replaces parts under warranty by using his stock and then raises a requisition to the manufacturer for the goods or the parts. The manufacturer then provides the said goods or the parts, as the case may be, to the distributor through a delivery challan, without separately charging any consideration at the time of such replenishment
- No GST is payable on such replenishment of goods or the parts, as the case may be. Further, no reversal of ITC i

# APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY

Issue 5

- Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?

Clarification

- There is a supply of service by the distributor to the manufacturer. Hence, GST would be payable and the manufacturer would be entitled to avail ITC.

# APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY

Issue 6

- Whether GST would be payable in case of Extended warranty to the customers?

Clarification read with  
Circular No. 216/10/2024-  
GST

- a. Customer entered in to agreement of extended warranty at the time of original supply
  - With the manufacturer
  - It becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly.
  - With the person different from the supplier of the goods (i.e. Original Supply)
  - It is an assurance to the customers by third party thus same will be treated as a separate supply from the original supply of goods and will be taxable as supply of services.

# APPLICABILITY GST AND AVAILABILITY OF ITC WITH RESPECT OF WARRANTY

Issue 6

- Whether GST would be payable in case of Extended warranty to the customers?

Clarification read  
with Circular No.  
216/10/2024-GST

- b. Extended warranty at any time after the original supply
- It is an assurance to the customers. Thus the same shall be treated as a supply of services distinct from the original supply of goods and the supplier of the said extended warranty shall be liable to discharge GST liability applicable on such supply of services.”

# SUMMARY– EXTENDED WARRANTY

Nature

Supplier of Warranty

Clarification

At the time of original supply

Same Supplier

Composite- Taxable as per Principle supply

At the time of original supply

Different Supplier

Separate – Extended Warranty Service

After original supply

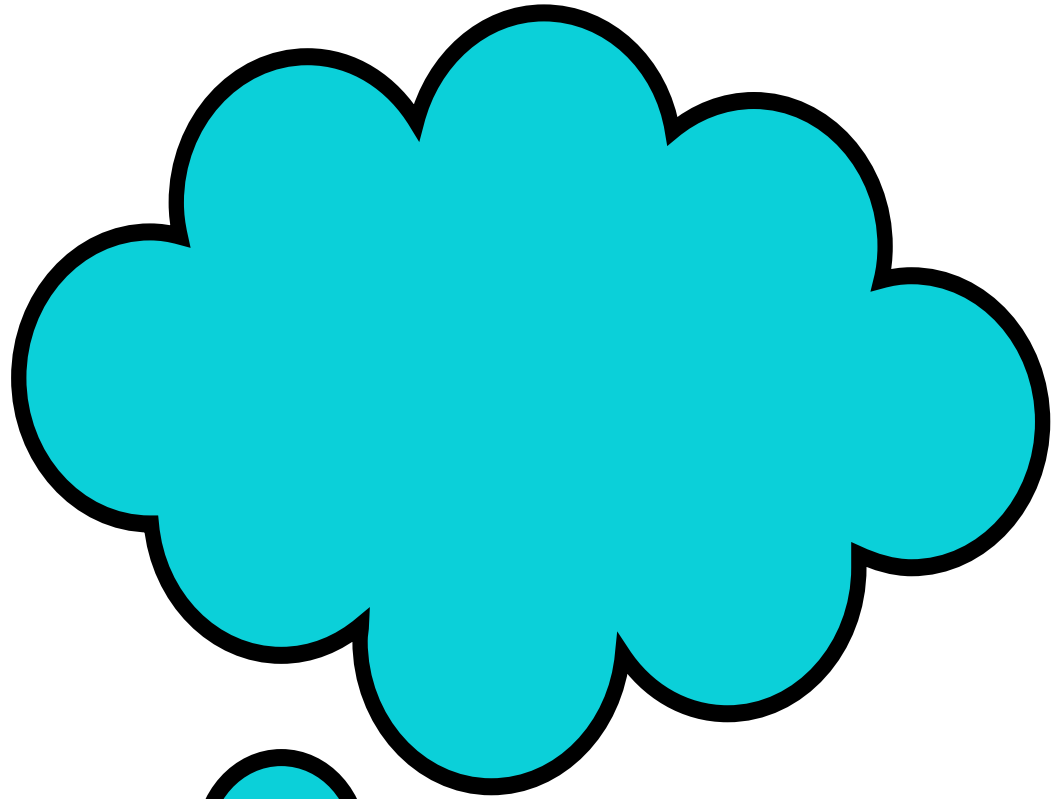
Any

Separate – Extended Warranty Service


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## KEY HIGHLIGHTS – EXTENDED WARRANTY

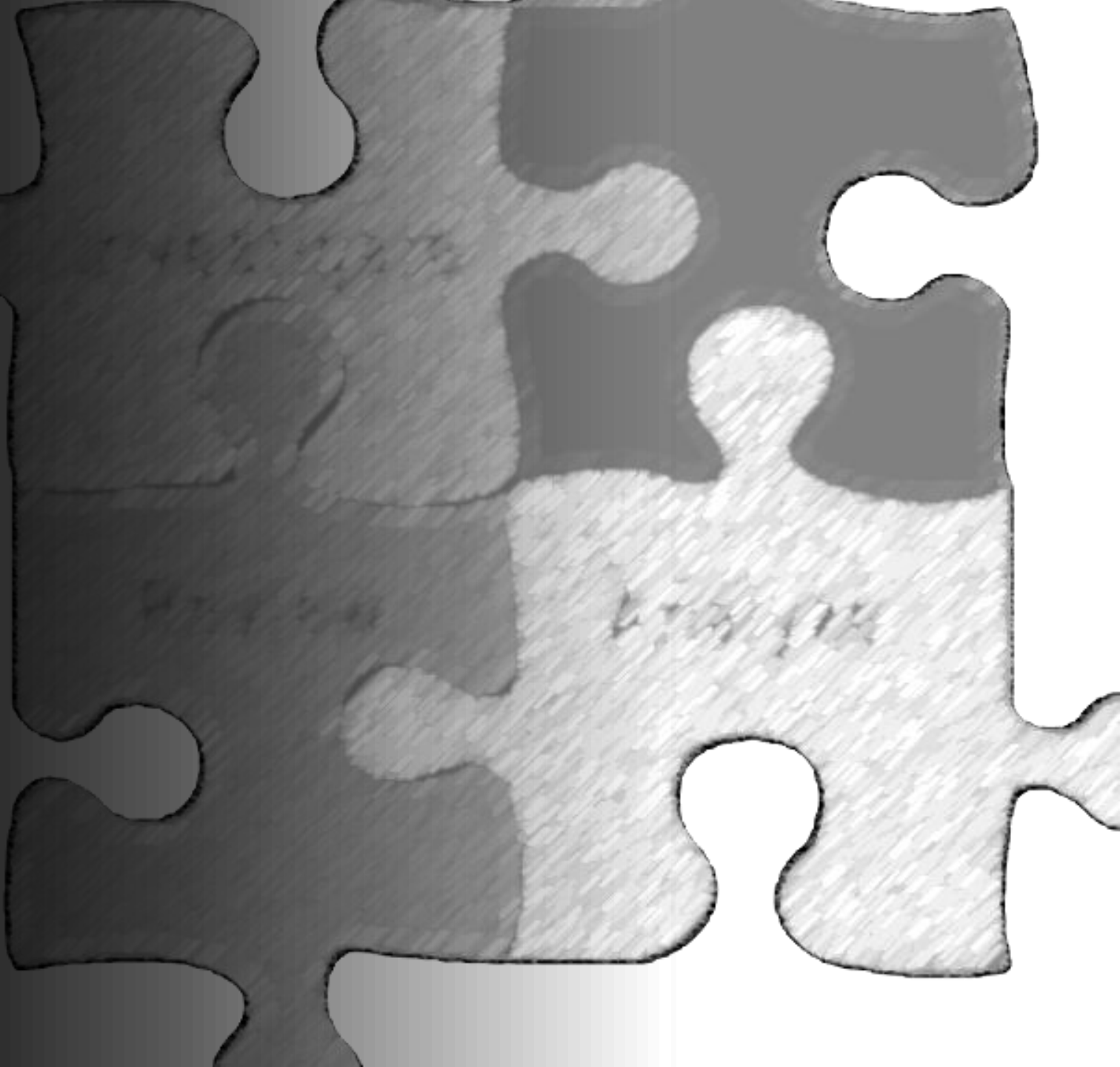
Whether it Extended Warranty along with Original Supply  
of goods can be treated as Composite Supply?



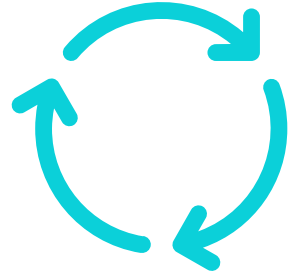
INDUSTRY SPECIFIC –  
CLARIFICATION



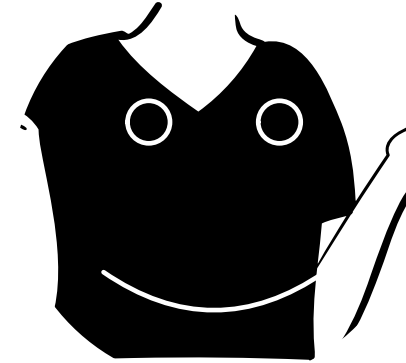
Valuation of supply of  
import of services by  
a related person  
where recipient is  
eligible to full input  
tax credit



# OVERVIEW



[Circular No.210/4/2024-GST](#)



Applicable to  
Valuation of supply of import of services by a  
related person

## S. NO. 4 OF SCHEDULE I OF CGST ACT

- **SCHEDULE I**

**ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT  
CONSIDERATION**

*4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.*

# Valuation of supply of import of services by a related person

Applicable to

- Where the foreign affiliate is providing certain services to the related domestic entity, and where full input tax credit is available to the said related domestic entity [Related Party]


Value for Levy of GST

- **If declared in the invoice by the said related domestic entity**
  - The said Value may be deemed as open market value
- **If the invoice is not issued by the related domestic entity**
  - the value of such services may be deemed to be declared as Nil, and may be deemed as open market value

## Key Highlights

What is the meaning of full ITC available?

Whether it can be contended even for other RCM liability that the same is not liable to be recovered as revenue neutral transaction? (like domestic RCM) where recipient is eligible for full ITC.



Other Clarification – Industry Specific

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## OTHER CLARIFICATION

Taxability of  
ESOP/ESPP/RSU provided  
by a company to its  
employees through its  
overseas holding company

Clarifications on various  
issues pertaining to  
special procedure for the  
manufacturers of the  
specified commodities

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## OTHER CLARIFICATION

Clarifications with Respect  
to Insurance Company  
and/or Insurance Claim

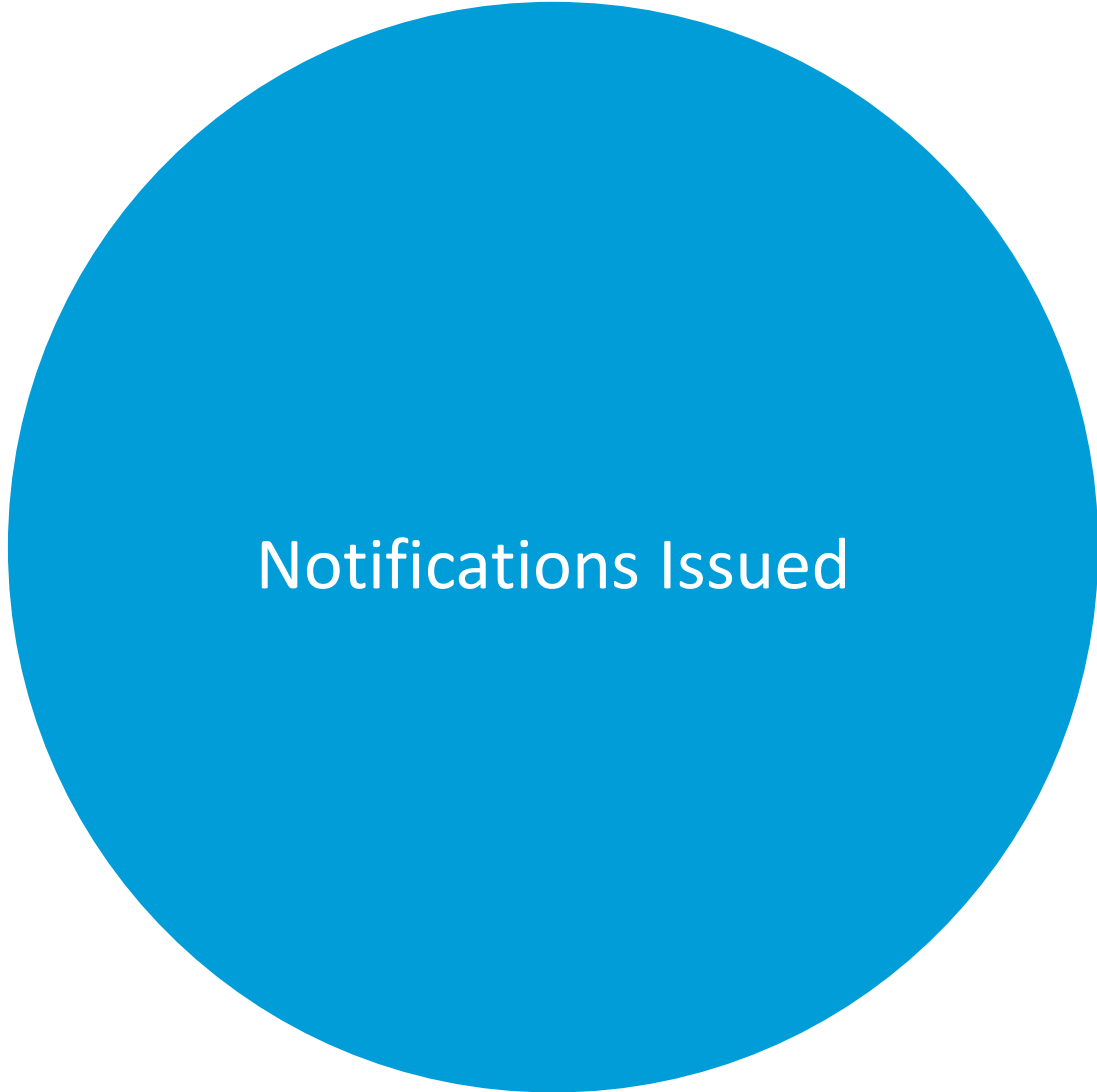
Clarification regarding  
taxability of the transaction  
of providing loan by an  
overseas affiliate to its  
Indian affiliate or by a  
person to a related person

## OTHER CLARIFICATION

Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors

Clarification on Time of Supply with respect to

- Services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model
- services of spectrum usage and other similar services under GST



Notifications Issued



REFUND IN CASE OF EXPORT OF GOODS [NOT. NO.  
12/2024 – CT]



# REFUND IN CASE OF EXPORT OF GOODS [NOT. NO. 12/2024 – CT]

## Amendment in Rule 89

Additional IGST paid on account of upward revision in price of the goods subsequent to exports, and on which the refund of IGST paid at the time of export of such goods has already been sanctioned as per rule 96, may file an application for such refund of additional IGST paid, electronically in FORM GST RFD-01

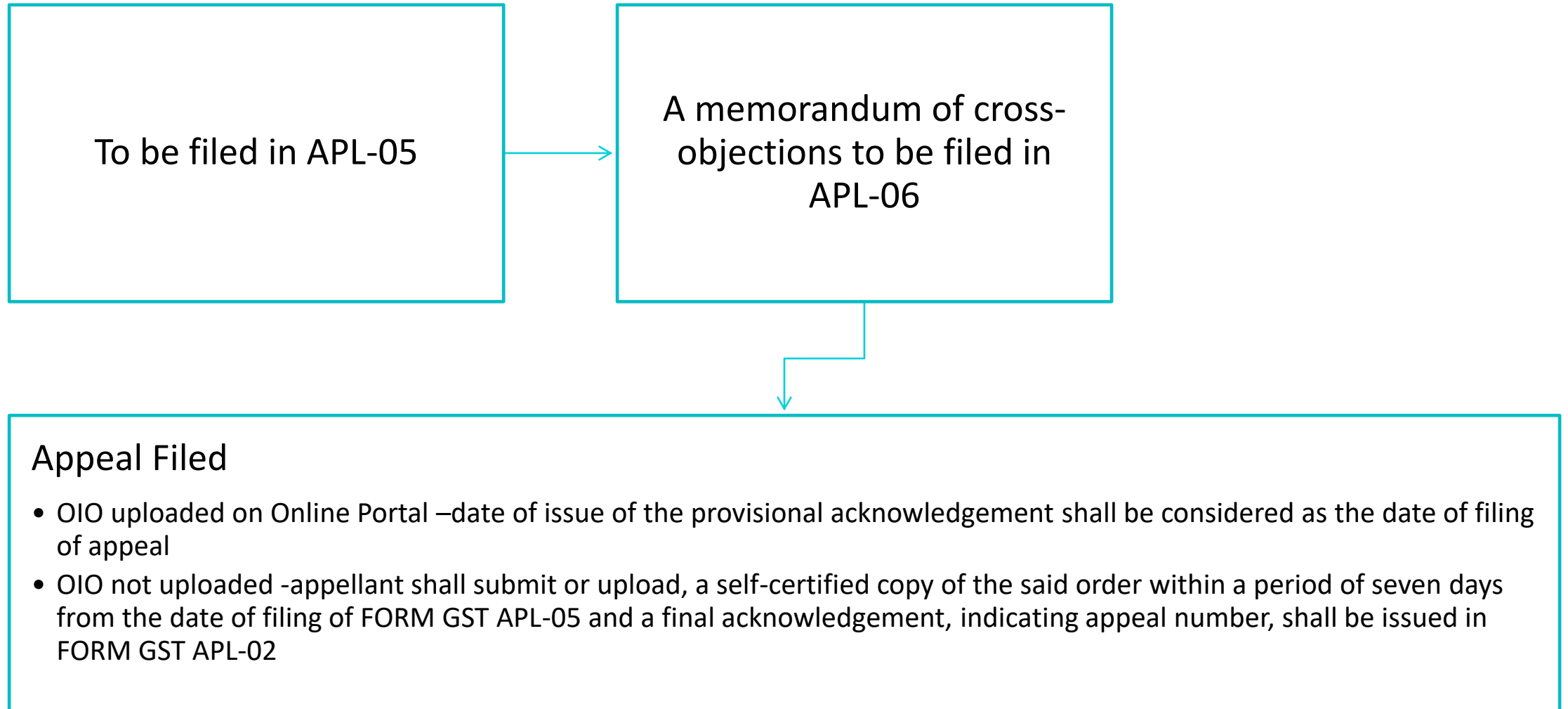
For earlier application 2 years time limit will start from the date on which this sub-rule comes into force



APPEAL TO THE APPELLATE TRIBUNAL.– [NOT. NO.  
12/2024 – CT]



## APPEAL TO THE APPELLATE TRIBUNAL.– [NOT. NO. 12/2024 – CT]



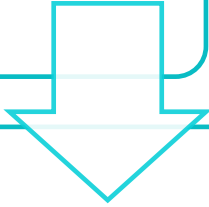


# PROCEDURE FOR ISD [NOT. NO. 12/2024 – CT]



## PROCEDURE FOR ISD [NOT. NO. 12/2024 – CT]

ITC available for distribution in a month shall be distributed in the same month and FORM GSTR-6 to be furnished



ITC distributed should not exceed credit available

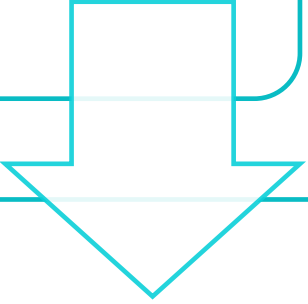


ITC of input services attributable to more than one recipient of credit shall be distributed pro rata on the basis of the turnover in a State

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## PROCEDURE FOR ISD [NOT. NO. 12/2024 – CT]

ISD shall issue credit note, as provided in sub-rule (1) of rule 54, for reduction of credit in case the ITC already distributed gets reduced for any reason;



ISD shall separately distribute the amount of ineligible ITC (Section 17 (5) or otherwise) and the amount of eligible input tax credit.



OTHER NOTIFICATION ISSUED



# RELEVANT LEGAL PROVISIONS

Sr. No	Notification	Reference
1.	Undergo authentication of the Aadhaar number for grant of registration in all the States and Union territories	NOT. No. 12/2024 – CT
2.	CBIC notifies FORM GSTR-1A to facilitate the taxpayers to amend the details in FORM GSTR-1	NOT. No. 12/2024 – CT
3.	In case of RCM of Corporate Guarantee where recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the value of said supply of services.	NOT. No. 12/2024 – CT

# RELEVANT LEGAL PROVISIONS

Sr. No	Notification	Reference
1.	The threshold for reporting of B2C inter-State supplies invoice-wise in Table 5 of FORM GSTR-1 was recommended to be reduced from Rs 2.5 Lakh to Rs 1 Lakh [w.e.f 1 <sup>st</sup> Aug 24]	NOT. No. 12/2024 – CT
2.	Change in due date for filing of return in FORM GSTR-4 for composition taxpayers from 30 April to 30 June for the financial year 2024-25 onwards.	NOT. No. 12/2024 – CT
3.	Not interest u/s 50 of CGST Act on Interest Electronic Cash Ledger (ECL)	NOT. No. 12/2024 – CT

# RELEVANT LEGAL PROVISIONS

Sr. No	Notification	Reference
1.	CBIC notifies unregistered person required to generate an E-way bill shall submit the details electronically on the common portal in FORM GST ENR- 03	NOT. No. 12/2024 – CT
2.	Filing of annual return in FORM GSTR-9/9A for the FY 2023-24 may be exempted for taxpayers having aggregate annual turnover upto two crore rupees.	NOT. No. 14/2024 – CT
3.	Reduced the TCS rate from present 1% (0.5% CGST + 0.5% SGST/ UTGST, or 1% IGST) to 0.5 % (0.25% CGST + 0.25% SGST/UTGST, or 0.5% IGST),	NOT. No. 15/2024 – CT Not. No. 01/2024 –IT Not. No. 01/2024 -UTT

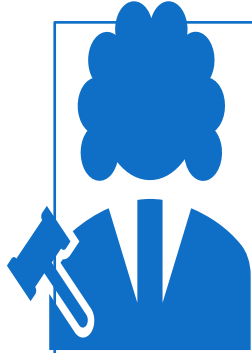


Recommendations  
yet to Notify  
Applicable to All Taxpayers

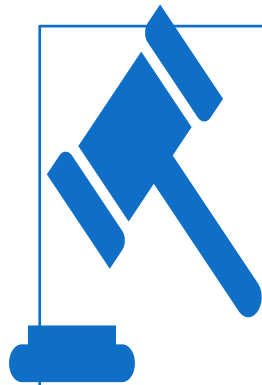
TIME LIMIT FOR SECTION 16(4)



# TIME LIMIT FOR SECTION 16(4)



What is Section 16(4) of the GST Act?



Time limit for availment of ITC prescribed – i.e.  
The last date for avaiment of ITC prescribed was  
due date of furnishing of GSTR-3B of September  
of next year

## Case

- Gobinda Construction [[2023-TIOL-1178-HC-PATNA-GST](#)]

## Issue

- Challenge the constitutional validity of Section 16(4) of the Act, 2017 which denies ITC on account of delay in filing of GST return

## Observations

- ITC is not unconditional and a registered person becomes entitled to ITC only if the requisite conditions stipulated therein are fulfilled
- Section 16(4) prescribe one of the conditions which makes a registered person entitled to take ITC and by no means sub-section (4) can be said to be violative of Article 300-A of the Constitution of India.
- *Fiscal legislation having uniform application to all registered persons cannot be said to be violative of Article 19(1)(g) of the Constitution*

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## TIME LIMIT FOR SECTION 16(4)

The time limit to avail ITC w.r.t. any invoice or debit note under Section 16(4) of CGST Act, through any GSTR 3B return filed up to 30.11.2021 for FY 2017-18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30.11.2021

The amendment applies retrospectively.

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## KEY HIGHLIGHTS - TIME LIMIT FOR SECTION 16(4)

Whether ITC for 17-18 and 18-19 eligible if availed in any GSTR-3B filed till 30.11.2021?

Whether ITC is eligible only if availed in GSTR-3B up to September however 3B filed delayed?

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## KEY HIGHLIGHTS - TIME LIMIT FOR SECTION 16(4)

It will also benefit taxpayers who have filed GST returns under the Amnesty Scheme..

Whether same is Applicable if ITC is not availed at all till the time?

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## KEY HIGHLIGHTS - TIME LIMIT FOR SECTION 16(4)

What about refund of ITC  
already reversed?

What about previous  
matter pending in  
appeal?

Whether ITC is eligible in  
case of delay in filing of  
GSTR-1 by the supplier

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## TIME LIMIT FOR SECTION 16(4)

Also, recommended that ITC to be eligible if return filed post revocation of cancellation of registration if returns are filed within 30 days of revocation Order

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CONDITIONAL WAIVER OF  
INTEREST OR PENALTY OR BOTH  
FOR DEMAND NOTICE ISSUED  
UNDER SECTION 73



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CONDITIONAL WAIVER OF INTEREST OR PENALTY OR BOTH FOR  
DEMAND NOTICE ISSUED UNDER SECTION 73

Recommended insertion of  
new section 128A

# CONDITIONAL WAIVER OF INTEREST OR PENALTY OR BOTH FOR DEMAND NOTICE ISSUED UNDER SECTION 73

## Applicable to

- Demand order u/s 73 of CGST Act, 2017 for the fiscal years 2017-18, 2018-19 and 2019-20

## Benefit under Scheme

- Waiver of interest and penalties

## Conditions if any

- Full tax demanded is paid up to 31.03.2025.

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## KEY HIGHLIGHTS - CONDITIONAL WAIVER OF INTEREST OR PENALTY OR BOTH FOR DEMAND NOTICE ISSUED UNDER SECTION 73

It may reduce litigation, but the litigation of demand notices issued under section 74 will still be uncertain.

What if interest and/or penalty already paid ?

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## KEY HIGHLIGHTS - CONDITIONAL WAIVER OF INTEREST OR PENALTY OR BOTH FOR DEMAND NOTICE ISSUED UNDER SECTION 73

What if one OIO for numerous issues including interpretational issue?

OIO issued u/s 74 of the CGST Act as well u/s 73 of the CGST act for same issue and/or subject matter.

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TO PROVIDE FOR COMMON TIME LIMIT  
FOR ISSUANCE OF DEMAND NOTICES  
AND ORDERS FOR SECTION 73 AND 74  
OF THE CGST ACT.



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COMMON TIME LIMIT FOR ISSUANCE OF DEMAND NOTICES AND  
ORDERS FOR SECTION 73 AND 74 OF THE CGST ACT

Proposed insertion of a new  
Section 74A in CGST Act,

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## TO PROVIDE FOR COMMON TIME LIMIT FOR ISSUANCE OF DEMAND NOTICES AND ORDERS FOR SECTION 73 AND 74 OF THE CGST ACT

Common time limit for issuance of Demand Notices

The time limit for the taxpayers to avail the benefit of reduced penalty, by paying the tax demanded along with interest, has been recommended to be increased from 30 days to 60 days [ For Section 74 of the CGST Act]

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## COMMON TIME LIMIT FOR ISSUANCE OF DEMAND NOTICES AND ORDERS FOR SECTION 73 AND 74 OF THE CGST ACT

Whether amendment proposed is beneficial?

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# REDUCTION OF THE AMOUNT OF PRE-DEPOSIT FOR FILING OF APPEALS



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REDUCTION OF THE AMOUNT OF PRE-DEPOSIT FOR FILING OF APPEALS

Proposed Amendments in  
Section 107 and Section 112  
of CGST Act

# REDUCTION OF THE AMOUNT OF PRE-DEPOSIT FOR FILING OF APPEALS

## Pre-deposit for Appeal GST Appellate Tribunal - At Present

- 20% with a maximum amount of Rs. 50 crores CGST and Rs. 50 crores SGST to

## Appeal GST Appellate Tribunal – Proposed

- 10 % with a maximum of Rs. 20 crores CGST and Rs. 20 crores SGST



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## OTHER RECOMMENDATION



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## INSERTION OF SECTION 11A

Recommended inserting a new Section 11A in CGST Act to give powers to the Government, on the recommendations of the Council, to allow regularization of non-levy or short levy of GST, where tax was being short paid or not paid **due to common trade practices.**

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## SUNSET CLAUSE FOR ANTI -PROFITEERING

Recommended amendment in section 171 and section 109 of CGST Act, 2017 to provide a sunset clause for anti-profiteering under GST and to provide for handling of anti-profiteering cases by Principal bench of GST Appellate Tribunal (GSTAT). **Council has also recommended the sun-set date of 01.04.2025 for receipt of any new application regarding anti-profiteering.**

# Other Recommendation

**Reason**

**Review**

**Analyze**

**Investigate**



## Other Recommendations – Extra Neutral Alcohol (ENA)

Recommended amendment in sub-section (1) of Section 9 of the CGST Act, 2017 for not levying GST on Extra Neutral Alcohol used for manufacture of alcoholic liquor for human consumption.



# Proposed to Exempt Supply of Certain Services

**Reason**

**Investigate**

**Review**

**Analyze**

## Proposed to Exempt Supply of Certain Services

To create a separate entry in Notification No. 12/2017- CTR 28.06.2017 under heading 9963 to exempt accommodation services having value of supply of accommodation up to Rs. 20,000/- per month per person subject to the condition that the accommodation service is **supplied for a minimum continuous period of 90 days.**

## Proposed to Exempt Supply of Certain Services

To exempt the services provided by Indian Railways to general public, namely, sale of platform tickets, facility of retiring rooms/waiting rooms, cloak room services and battery-operated car services and to also exempt the Intra-Railway transactions.

To exempt GST on the services provided by SPV to Indian Railway by way of allowing Indian Railway to use infrastructure built & owned by SPV during the concession period and maintenance services supplied by Indian Railways to SPV.

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# CHANGES IN GST RATES – GOODS



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## CHANGES IN GST RATES – GOODS

### Recommendation 5% GST rate on

- imports of 'Parts, components, testing equipment, tools and tool-kits of aircrafts, irrespective of their HS classification to provide a fillip to MRO activities subject to specified conditions.

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## CHANGES IN GST RATES – GOODS

### Recommendation 12% GST rate on

- milk cans (steel, iron, aluminum) irrespective of use;
- Carton, Boxes And Cases of both corrugated and non-corrugated paper or paper-board
- Solar cookers whether single or dual energy source;
- sprinklers including fire water sprinklers.



# Proposed to Exempt Supply of specified Goods

**Reason**

**Investigate**

**Review**

**Analyze**

Proposed to Exempt Supply of specified Goods

To exempt Compensation Cess on the imports in SEZ by SEZ Unit/developers for authorised operations w.e.f. 01.07.2017.

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ATTENTION !



The amendments  
discussed in the press  
release will be subject to  
a detailed notification!



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