



CBIC ISSUES CIRCULARS TO IMPLEMENT RECOMMENDATIONS OF THE GST COUNCIL

In line with the recommendations made in the GST Council meetings, CBIC has issued the following Circulars *inter alia* providing clarifications on the GST implications on various transactions as well as regularizing payment of GST for the past periods. The gist of the Circulars is set out hereunder:

Circular No. 244/01/2025-GST dated 28 January 2025

In line with the recommendations made in the 53rd GST Council meeting, the payment of GST on the following activities or transactions is regularized on 'as is where is' basis for the period 1 July 2017 to 31 October 2024:

1. Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements subject to the condition that the lead insurer pays applicable GST on the entire amount of premium paid by the insured.
2. Services supplied by the insurer to the reinsurer for which, ceding commission or reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer subject to the condition that applicable GST is paid by reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

Circular No. 245/02/2025-GST dated 28 January 2025

In line with the recommendations made in the 55th GST Council Meeting, the following clarifications have been issued:

1. **Penal Charges by Regulated Entities (REs) such as banks and non-banking financial companies:**
 - a. The Reserve Bank of India, *vide* instructions dated 18 August 2023 had directed REs to discontinue the use of penal interest for non-compliance of material terms and conditions of loan contracts by borrowers. Instead, the REs were directed to levy penal charges with an intent to essentially inculcate a sense of credit discipline. These instructions, made effective from 1 January 2024, do not apply to credit cards, external commercial borrowings, trade credits and structured obligations covered under product specific directions.
 - b. In this regard, the CBIC has clarified that no GST is leviable on penal charges levied by REs as per the aforesaid instructions since these charges are essentially in the nature of charges for breach of terms of contract and are squarely covered by Circular no. 178/10/2022-GST¹.
2. **Services supplied by Payment Aggregators (PAs)**
 - a. PAs are entities that facilitate e-commerce sites and merchants to accept various payment instruments from their customers without the need for the e-commerce sites and merchants to create a separate payment integration system of their own. During the process, PAs receive payments from customers and pool and transfer them on to the merchants within a specified time period.
 - b. The benefit of GST exemption provided under Sl. No. 34 of Notification no. 12/2017-Central Tax (Rate) dated 28 June 2017 (Exemption Notification) is available to an 'acquiring bank' and the same is defined in Explanation to the aforesaid entry to *inter alia* include '... any other person, who makes the payment to any person who accepts such card'.

¹ Dated 3 August 2022

- c. It is clarified that -
- i. RBI regulated PAs are covered under the purview of the definition of 'acquiring bank' provided in Explanation to Sl. No. 34 of the Exemption Notification.
 - ii. Accordingly, services supplied by RBI regulated PAs in relation to settlement of an amount upto INR 2,000 in a single transaction, transacted through credit card, debit card, charge card or other payment card are exempted from payment of GST as per Sl. No. 34 of the Exemption Notification.
 - iii. The aforesaid exemption is limited to payment settlement function only involving handling of money and **does not extend to Payment Gateway services.**
- 3. Regularizing payment of GST on Research and Development (R&D) services²**
- a. Sl. No. 44A of the Exemption Notification was introduced with effect from 10 October 2024 to exempt R&D services supplied by Government Entities or research associations, universities, colleges or other institutions notified under Section 35(1)(ii) or 35(1)(iii) of the Income Tax Act, 1961 against consideration in the form of grants.
 - b. In this regard, it is clarified that payment of GST on supply of R&D services by **Government Entities against grants received from Government Entities** (as covered in Sl. No. 44A of the Exemption Notification) is regularized on '**as is where is**' basis for the period 1 July 2017 to 9 October 2024³.
- 4. Regularizing payment of GST on specified skilling services**
- a. Till 9 October 2024, specified services provided by Training Partners approved by National Skill Development Corporation (NSDC) were exempted from the levy of GST in terms of Sl. No. 69 of the Exemption Notification.
 - b. The aforesaid exemption was subsequently withdrawn with effect from 10 October 2024 *vide* Notification No. 08/2024-Central Tax (Rate) dated 8 October 2024 (NN 8/2024). However, subsequently, *vide* Notification No. 6/2025-Central Tax (Rate) dated 16 January 2025 (NN 6/2025), the aforesaid exemption entry was re-introduced to Sl. No. 69 of the Exemption Notification.
 - c. In this regard, it is clarified that payment of GST on services provided by Training Partners approved by NSDC which were exempt prior to 10 October 2024 is regularized on 'as is where is' basis for the period 10 October 2024 to 15 January 2025.
- 5. Levy of GST on facility management services supplied to Municipal Corporation of Delhi (MCD)**
- a. Sl. No. 3A of the Exemption Notification exempts services involving composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the composite supply provided to the Government or local authority by way of any activity in relation to any function entrusted to a Panchayat or a Municipality under Articles 243G or 243W of the Constitution of India (Constitution) respectively.
 - b. In cases where MCD receives facility management services such as housekeeping, civil maintenance, furniture maintenance and services from horticulture agencies for the upkeep of their office, these services cannot be construed to be in relation to the performance of any functions entrusted to a Municipality under Article 243W of the Constitution. Accordingly, it is clarified that GST is leviable at applicable rates on the services supplied by a facility management agency to MCD for upkeep of its headquarter building and the same would not be exempt from payment of GST as per Sl. No. 3A of the Exemption Notification.
- 6. Whether Delhi Development Authority (DDA) is a local authority**
- a. As per Sl. No. 5 of Notification No. 13/2017-Central Tax (Rate) dated 28 June 2017 (RCM Notification), services supplied by local authority to a business entity are taxable under Reverse Charge Mechanism (RCM).
 - b. The term 'local authority' defined in Section 2(69) of the Central Goods and Services Tax Act, 2017 (CGST Act) means an authority which is similar to the elected self-governing body such as Municipal Committee, and which is entrusted with the control and management of municipal or local fund, can be termed as local authority.
 - c. In this regard, it is clarified that DDA does not meet the requirement of local authority under Section 2(69) of CGST Act and hence, DDA cannot be treated as a 'local authority' under the GST law.
- 7. Regularization of RCM liability *qua* taxpayers registered under Composition levy**
- a. As per Sl. No. 5AB of RCM Notification, effective 10 October 2024, service of renting of an immovable property other than a residential dwelling (i.e., Commercial Property), when supplied by an unregistered person to a registered person, attracts GST under RCM.
 - b. The aforesaid entry was subsequently amended *vide* Notification No. 07/2025-Central Tax (Rate) dated 16 January 2025 to exclude taxpayers discharging GST liability under Composition levy. Accordingly, such taxpayers would not be liable to discharge GST under RCM with effect from 16 January 2025.
 - c. In this regard, the CBIC has also regularized payment of GST under RCM on renting of commercial property by an unregistered person to a registered person discharging GST under Composition levy for the past period i.e., from 10 October 2024 to 15 January 2025.

² Editor's Note: Although the 54th GST Council meeting had also recommended to regularize payment of GST on supply of R&D services by universities, colleges or other institutions notified under Section 35(1)(ii) or 35(1)(iii) of the Income tax Act, 1961, no such clarification regularising the past transactions has been issued yet.

³ Although the Circular provides a reference to the recommendation made in the 55th GST Council meeting, the same was recommended in the 54th GST Council meeting. Our alert on the recommendations made in the 54th GST Council meeting can be accessed by clicking [here](#).

8. Regularizing GST liability on support services supplied by electricity transmission or distribution utility

- a. Vide NN 8/2024, Sl. No. 25A was inserted in the Exemption Notification to exempt supply of services by way of providing metering equipment on rent, testing for meters / transformers / capacitors, etc., releasing electricity connection, shifting of meters / service lines, issuing duplicate bills, etc., which are incidental or ancillary to the supply of **transmission and distribution** of electricity provided by electricity **transmission and distribution** utilities to their consumers.
- b. Subsequently, vide NN 6/2025, to align Sl. Nos. 25 and 25A of the Exemption Notification, the phrase '**transmission and distribution**' referred to in Entry 25A was substituted with the term '**transmission or distribution**' with effect from 16 January 2025.
- c. In this regard, CBIC has regularized payment of GST on the services which are incidental or ancillary to the supply of transmission or distribution of electricity (as covered in Sl. No. 25A of the Exemption Notification) for the past period i.e., from 10 October 2024 to 15 January 2025 on '**as is where is**' basis.

9. Regularizing GST liability on services supplied by M/s. Goethe Institute / Max Mueller Bhawans

- a. These entities have six institutes across India which provide linguistic and cultural training to young Indians preparing for their stay in Germany. Prior to 1 April 2023, these institutes did not collect GST from their students nor did they pay GST on their services since they were under the bonafide belief that their activities are exempt from the levy of GST.
- b. In this regard, CBIC has regularized payment of GST on the services supplied by these institutions for the period 1 July 2017 to 31 March 2023 on '**as is where is**' basis.

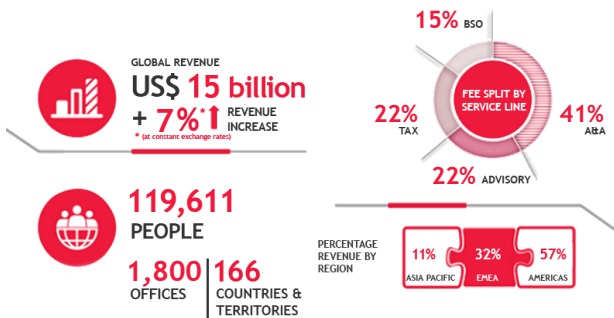
BDO in India Comments

The introduction of the aforesaid Circulars is in line with the recommendations made in the GST Council meeting, though the clarification pertaining to regularization of GST liabilities in respect of co-insurance and re-insurance services was long awaited by the insurance sector as the same was recommended in the 53rd GST Council but any corresponding Circular was not issued by CBIC.

Although some of these clarifications made in Circular No. 245/02/2025-GST indicate that they have been recommended in the 55th GST Council meeting, the said recommendations were not specifically incorporated in the Press Release issued pursuant to the 55th GST Council meeting. In respect of clarification pertaining to R&D services, though the Circular states that the corresponding recommendations were made in the 55th GST Council meeting, the same were made in the 54th GST Council meeting. It may also be noted that while the 54th GST Council meeting had *inter alia* recommended that past demands pertaining to grants received by a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 would also be regularized, the same has not been regularized yet, and these institutes continue to await the circular regularizing the past transactions.

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*Note: Financial results are as of 30 September 2023

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