

Monthly Update Capsule

June -2024



R R D AND ASSOCIATES
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GST & CUSTOMS

ESOPs by foreign cos to employees of India unit not to attract GST

ESOPs given by foreign companies to employees of its Indian subsidiary at prevailing market value will not attract GST, the CBIC has said.

However, Employee Stock Option (ESOP)/Employee Stock Purchase Plan (ESPP)/ Restricted Stock Unit (RSU) provided by a foreign company to its India subsidiary employee would come under GST net if an additional amount over and above the cost of securities/shares is charged by the foreign holding company from the domestic arm.

This clarification forms part of the 16 circulars issued by the Central Board of Indirect Taxes and Customs (CBIC), following the meeting of the GST Council on June 22.

Some Indian companies provide the option to their employees for allotment of securities/shares of their foreign holding company as part of the compensation package as per the terms of the contract of employment. In such cases, on exercising the option by the employees of an Indian subsidiary, the securities of a foreign holding company are allotted directly by the holding company to the employee. The cost of such securities is generally reimbursed by the subsidiary company to the holding company.

Clarifying the doubts raised regarding the taxability of such a transaction under the GST, CBIC said reimbursement of such securities is generally done by a domestic subsidiary company to a foreign holding company on a cost-to-cost basis -- equal to the market value of securities without any element of additional fee, markup or commission.

Since the said reimbursement by the domestic subsidiary company to the foreign holding company is for the transfer of securities/shares, which is neither in nature of goods nor services, the same cannot be treated as import of services by the domestic subsidiary company from the foreign holding company and hence, is not liable to GST.

However, if the foreign holding company charges any additional fee, markup, or commission from the domestic subsidiary company for issuing ESOP/ESPP/RSU to the employees of the India arm, then the same shall be considered to be in nature of consideration for the supply of services of facilitating/arranging the transaction in securities/shares by the foreign holding company to the domestic subsidiary.

In such cases, GST will be leviable on such amount of the additional fee, markup, or commission, charged by the foreign holding company from the domestic subsidiary for issuance of its securities/shares to the employees of the latter. The GST shall be payable by the domestic holding company on a reverse charge basis on such import of services from the foreign holding company, the CBIC said.

Read more at: [ESOPs by foreign cos to employees of India unit not to attract GST](#)

Major GST relief for foreign holding cos in intra-loan transactions

In a relief for foreign firms giving loans to Indian subsidiaries, tax authorities have said goods and services tax (GST) will not be imposed on them, subject to some caveats. Additional fees, commissions, or related payments — over and above the amount charged as interest — on these loans will attract GST at 18 per cent, the Central Board of Indirect Taxes and Customs (CBIC) has said. The move is expected to end uncertainties on taxing loans/credit among group companies - a matter plaguing foreign entities. The issue arose during GST audits and resulted in tax notices being served.

In taxation terms, the matter involved valuing services of foreign affiliates when the Indian recipient can claim full input tax credit (ITC). The CBIC has said the open market value of such services can be the invoiced amount by the Indian company, assuming full ITC is available.

If no invoice exists, the service value can be considered nil.

If a foreign company seeks additional fees or charges on issuing employee stock option plans (ESOPs), employee stock-purchase plans or the restricted stock unit scheme to employees of domestic firms, GST will apply.

The issue was in the context of reimbursements among Indian subsidiaries and their holding entities where options provide allotment of shares/securities of a holding company directly to the employee. It said reimbursements on a cost-to-cost basis did not trigger GST, affirming that such transactions did not constitute a taxable service.

Read more at: [Major GST relief for foreign holding cos in intra-loan transactions](#)

GST suppliers giving discounts must ensure undertaking from client

Suppliers giving post-sale discounts through credit notes under GST will have to ensure that the client gives an undertaking or a CA certificate stating that the ITC availed on the discount value has been reversed, the CBIC has said.

Currently, there is no mechanism to track whether the Input Tax Credit (ITC) on such discounts has been reversed or not.

Till the time a functionality is made available on the common portal to enable the suppliers as well as the tax officers to verify the reversal, the supplier may procure a certificate from the recipient of the supply, issued by the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that the recipient has made the required proportionate reversal of ITC at his end in respect of such credit note issued by the supplier.

In cases, where the amount of tax (CGST+SGST +IGST and including compensation cess, if any) involved in the discount given by the supplier to a recipient through tax credit notes in a financial year does not exceed Rs 5 lakh, then instead of CA/CMA certificate, then the supplier will have to get an undertaking from the said recipient.

"Going forward, this will significantly benefit the industry by clarifying the process for issuing credit notes. The circular mandates obtaining CA/CMA certifications or self-certifications for smaller transactions, which increases the documentation burden and necessitates updates to accounting systems.

Read more at: [GST suppliers giving discounts must ensure undertaking from client](#)

Early GST Recovery proceedings Initiation Rules

Central Board of Indirect Taxes and Customs (CBIC), under the Ministry of Finance, Department of Revenue, issued Instruction No. 01/2024-GST on May 30, 2024, addressing the guidelines for the initiation of recovery proceedings concerning the Central Goods and Services Tax Act, 2017 (CGST Act). This instruction is directed to all Principal Chief Commissioners, Chief Commissioners, Principal Commissioners, and Commissioners of Central Tax, as well as Principal Directors General and Directors General of Central Tax.

The instruction begins by highlighting Section 79 of the CGST Act, which empowers the proper officer to recover any outstanding amount payable by a person to the government under the Act. It

specifies that recovery proceedings can be initiated if the amount due is not paid within three months from the date of service of the order. However, the proper officer, if deemed necessary in the interest of revenue, may require the payment within a shorter period, provided reasons are recorded in writing.

The instruction emphasizes that recovery proceedings should generally commence only after the lapse of the three-month period. Exceptions to this rule are allowed only when it is essential for revenue protection, and the proper officer must justify the need for early recovery in writing.

It has come to the Board's notice that some field formations have been initiating recovery proceedings before the stipulated three-month period, even when the proper officer has not explicitly required early payment. To ensure uniformity in implementing the law, the Board issues these instructions under its powers conferred by Section 168 of the CGST Act.

The instruction reiterates the roles of the proper officers in the recovery process, specifying that recovery proceedings under Section 79 are to be undertaken by the jurisdictional Deputy or Assistant Commissioner of Central Tax. However, if early recovery is deemed necessary, the matter must be referred to the jurisdictional Principal Commissioner or Commissioner of Central Tax for approval.

The Principal Commissioner or Commissioner must examine the justification provided by the Deputy or Assistant Commissioner and, if satisfied, provide written reasons for requiring early payment from the taxable person. These reasons must be based on credible evidence, such as the risk of revenue loss due to the taxpayer's potential closure or financial instability.

Furthermore, the instruction emphasizes the importance of considering the taxpayer's financial health, business operations, and credibility before issuing directions for early payment. It warns against mechanical issuance of such directions and stresses the need for a balanced approach between revenue protection and facilitating business operations.

In summary, the instruction provides a framework for initiating recovery proceedings under the CGST Act, emphasizing the importance of adherence to timelines and justifying early recovery actions in the interest of revenue protection. It aims to ensure consistency and fairness across field formations while balancing the needs of revenue collection and supporting business operations.

Read More At : [Early GST Recovery proceedings Initiation Rules](#)

GST appeal process to be fully digitised

The Goods and Services Tax Network (GSTN) will digitise the entire process of dispute resolution via appeal to the GST Appellate Tribunal (GSTAT). A portal is likely to be ready for this purpose before the full operationalisation of all the benches of the tribunal.

FE had reported earlier that the government intends to operationalise all the benches of GST Appellate Tribunal (GSTAT) by January 2025, as it aims to alleviate the significant backlog of pending GST-related disputes at the appellate level, citing a source. The principal bench of GSTAT, in New Delhi, is expected to start functioning from July-August. As many as 14,227 appeals against disputed tax demands raised by Central GST authorities were pending as of June 2023, a response by the finance ministry to the Parliament had revealed.

On May 6, Finance Minister Nirmala Sitharaman administered the oath to Sanjaya Kumar Mishra, former chief justice of Jharkhand High Court, as the President of the GSTAT.

GSTAT is the appellate authority established under the Central GST Act, 2017, to hear various appeals against the orders of the first appellate authority. It consists of a Principal Bench, in New Delhi, and various state benches. As per the approval of the GST Council, the government has notified 31 state benches at various locations across the country.

Tax experts say the digital portal would result in streamlining of appeals by enabling electronic filing, which would help reduce paperwork as well as administrative burden. It will significantly reduce turnaround time in the overall litigation process, leading to faster disposal of appeals and quicker liquidation of revenue, they say.

Currently, the government is appointing judicial members and technical members in the GSTATs. Judicial members within GSTATs are individuals with a background in law and judicial experience, often serving or retired judges. Their role is to provide legal expertise, interpret laws and regulations, and ensure that appeals are adjudicated in accordance with legal principles and precedents. Technical members, on the other hand, are experts in fields such as taxation, finance, accounting, or economics. They contribute to the tribunal's deliberations, offering insights into the technical aspects of GST laws, calculations, and industry practices.

Read More At : [GST appeal process to be fully digitised](#)

GST Council's fitment committee likely to consider dropping 12% slab

The fitment committee under the Goods and Services Tax (GST) Council, comprising central and state officials, has begun a rate rationalisation exercise afresh, checking the possibility of dropping some of the rates, particularly the 12 per cent slab, to achieve a revenue-neutral structure, a senior official with direct knowledge of the matter told Business Standard.

The GST regime could see an overhaul in the current financial year (FY25) as it may move to a three-slab structure from the existing four. The current rate structure comprises standard rates of 5 per cent, 12 per cent, 18 per cent, and the highest rate of 28 per cent. Besides, it has zero and special rates for certain goods and services.

The fitment committee started holding meetings on the issue and preparing inputs towards revamping tax rates and possible implications, which will be submitted to the Group of Ministers set up by the GST Council to suggest changes to the rate structure.

The revenue department expects revamped tax rates to be implemented in FY25. Rate rationalisation is a priority as the current tax structure needs to be streamlined to remove certain ambiguity, an official said.

He further said that the Council, which is expected to meet after the July Budget, is likely to discuss the rate rationalisation road map. The move follows the stability in GST collections, which had crossed the Rs 2 trillion mark in April.

They are expected to garner Rs 1.7-1.8 trillion every month during the year. An email to the finance ministry seeking comment on the matter remained unanswered until the time of going to press. Rationalisation could shift goods across slabs, so any decision on the issue to be taken after extensive deliberations, another official said.

The seven-member rate rationalisation state ministers panel is being headed by UP Finance Minister Suresh Khanna. The panel includes finance ministers from Goa, Kerala, Karnataka, West Bengal, Rajasthan, and Bihar. This panel was reconstituted in November last year, in light of the state government's political shift.

The former state panel on the matter under the chairmanship of Karnataka's finance minister and chief minister Basavaraj Bommai had presented an interim report in June 2022's council meeting and sought more time for the final recommendations.

The new panel is likely to be rejigged again because of the necessity to replace one of its members, Vijay Kumar Chaudhary, the former finance minister of Bihar, following a change in the state government.

Over 1,200 items and services attract GST. Other than the standard rates, the tax structure also has some special rates: 0.25, 1.5, and 3 per cent. While certain goods fall under zero rates. The majority of the revenue comes from the 18 per cent GST slab, followed by the 28 per cent GST slab which adds 16 per cent of the total GST revenue. The remaining is from 5 and 12 per cent slabs.

Experts said that it is pertinent to streamline the tax structure for better revenue augmentation. A significant portion of litigation under GST concerns the classification of supplies and the applicable GST rates.

A simplified rate structure would automatically reduce potential disputes over taxes charged, as most similar goods would fall under the same GST rate, Abhishek Jain, indirect tax head and partner, KPMG said, adding that along with the broader benefits of lower GST rates on consumption, the industry could also expect to see fewer GST-related litigation.

Read More At : [GST Council's fitment committee likely to consider dropping 12% slab](#)

Here's what GST Council recommended in 53rd GST Council Meeting:

CHANGES IN GST RATES OF GOODS:

Aircraft parts and tools:

5% IGST on imports of parts, components, testing equipment, tools –kits of aircrafts.

Milk cans:

12% GST on all steel, iron , and aluminium milk cans.

Cartons boxes:

GST on cartons, boxes and cases of paper reduced This change is intended to benefit both manufacturers and consumers by lowering the overall cost of these essential packaging materials from 18% to 12%.

Solar cooker:

A uniform GST rate of 12 per cent recommended for solar cookers -- both single or dual energy source.

Poultry machinery parts:

12% GST on parts of poultry keeping machinery.

Sprinklers:

All types of sprinklers, including fire and water sprinklers, will attract a uniform GST rate of 12 per cent

SERVICE EXEMPTIONS:**Indian Railways services:**

The council granted a GST exemption on platform tickets, aiming to ease the financial burden on passengers. This decision is part of broader efforts to make railway services more affordable.

Hostel accommodation:

Services related to hostel accommodation outside educational institutions were exempted from GST up to ₹20,000 per person each month. This exemption is designed to make hostel accommodation more affordable for non-student residents and working professionals.

Special purpose vehicles:

Special purpose to Indian Railway and maintenance services provided by Indian Railways to SPVs have been exempted

EXEMPTION:**DEFENCE IMPORTS:**

IGST exemption on specified defence items extended until 30th June, 2029

RAMA PROGRAMME IMPORTS:

IGST exemption on research equipment/buoys under RAMA programme

SEZ IMPORTS:

Compensation cess exemption on imports by SEZ units. Developers since 01.07.2017

OTHER CHANGES:

- Waive interest and penalties for section 73 demand notices for FY 2017-18, 2018-19, 2019-20 if tax is paid by 31.03.2025
- The time limit for ITC on invoices/debit notes u/s 16(4) for FY 2017-18 to 2020-21 deemed as 30.11.2021 for returns filed by this date.
- Monetary limits for department appeal Rs 20lakhs (GST appellate tribunal), Rs 1cr (High court), Rs 2cr (Supreme court)

- The GST Council recommended nationwide implementation of biometric – based Aadhaar authentication for GST registration applicants in phases

MISCELLANEOUS:

GST Council recommends reduction of the quantum of pre-deposit required to be paid for filing of appeals under GST

GST Council recommends amending provisions of CGST Act to provide that the three-month period for filing appeals in GST Appellate Tribunal will start from a date to be notified by the Government

To ease the interest burden of the taxpayers, GST Council recommends to not levy interest u/s 50 of CGST Act in case of delayed filing of return, on the amount which is available in Electronic Cash Ledger (ECL) on the due date of filing of the said return

GST Council recommends sunset clause from April 1st, 2025 for receipt of any new application for Anti-profiteering.

Read more at [Here's what GST Council recommended in 53rd GST Council Meeting](#)

SEBI

Sebi makes process of securities payout directly to client account mandatory

To enhance operational efficiency and reduce the risk to clients' securities, markets regulator Sebi decided to make the process of direct payout of such securities to client's account mandatory. This will become effective from October 14, the Securities Exchange Board of India (Sebi) said in a circular.

Currently, the clearing corporation credits the pay-out of securities in the pool account of the broker, who then credits the same to the respective client's demat accounts. Further, a facility of direct delivery to investors was introduced in February 2001.

After extensive deliberations with the stock exchanges, clearing corporations (CCs) and depositories, Sebi has decided that "the securities for pay-out shall be credited directly to the respective client's demat account by the CCs".

Moreover, clearing corporations should provide a mechanism for trading member(TM) or clearing members (CM) to identify the unpaid securities and funded stocks under the margin trading facility.

In case of any shortages "arising due to inter se netting of positions between clients" -- internal shortages -- Sebi suggested TM or CM should handle such shortages through the process of auction. Moreover, in such cases, the brokers should not levy any charges on the client over and above the charges levied by the clearing corporations.

In May 2023, Sebi specified various processes for handling of clients' securities with regard to pay-in and pay-out of securities. This was to protect clients' securities and to ensure that the stock broker segregates securities of the client or clients so that they are not vulnerable to misuse.

Read More At : [Sebi makes process of securities payout directly to client account mandatory](#)

Sebi launches free investor-certification programme; free study material, no exam fee!

This has been launched to improve investors' understanding of the market. Move over stock-market gurus, the big boss is in the room. The market regulator, in association with the National Institute of Securities Market (NISM) has launched a free investor certification programme.

In a circular issued on June 11, the Securities and Exchange Board of India ([Sebi](#)) said that this is this voluntary certification aims to help investors test their knowledge of markets and investing. It added that it is designed to assist individuals in their journey towards gaining comprehensive knowledge about investing in the Indian securities markets.

During the launch, Ananth Narayan G, Whole Time Member of SEBI said that the new certification examination is a significant step towards enhancing digital financial education in the securities market.

He said, "This online exam will help enhance investors' understanding of the investment process and the associated risks in the securities market and thus promote an efficient approach to investment aligned with the risk appetite of the investor."

The examination objectives are the following:

1. Develop a foundational understanding of Basic concepts of Finance, i.e. Saving, Investment, Budgeting, Inflation etc.
2. Familiarise with various government schemes
3. Have an understanding of structure of securities markets, including primary and secondary markets
4. Know the role of stock exchanges, depositories, and regulatory bodies.
5. Learn about risks associated with Investment such as credit risk, market risk, and liquidity risk.
6. Understand risk management concepts, i.e. hedging and diversification.
7. Recognise the importance of due diligence, ethical behaviour, and transparency in investment practices.
8. Familiarise investors with their rights and responsibilities, disclosure requirements, and dispute resolution mechanisms.

Read More At: [Sebi launches free investor-certification programme; free study material, no exam fee!](#)

MISCELLANEOUS

Life insurers to mandatorily provide loan facility against policies: Irdai

Regulator Irdai said the facility of policy loan is now mandatory in all life insurance savings products, enabling policyholders to meet liquidity requirements. Issuing a master circular which consolidates all regulations with regards to life insurance policies, the Insurance Regulatory and Development Authority of India (Irdai) also said the free look period, which provides time to review the policy terms and conditions, is 30 days as against 15 days earlier.

The latest master circular follows a similar exercise by the regulator for general insurance policies.

"This is an important step in the series of reforms taken up by the insurance regulator with interests of the policyholders at the core. A conducive environment is now facilitated to spur innovation, enhance customer experience and satisfaction," Irdai said.

According to the master circular, the facility of partial withdrawal under pension products is allowed enabling the policyholders to meet their specific financial needs for important life events like higher education or marriage of children; purchase/ construction of residential house/flat; medical expenses, and treatment of critical illness.

In case of surrender of policies, reasonableness and value for money is to be ensured for both surrendering policyholders and continuing policyholders, Irdai said.

Further, the regulator said robust systems should be in place for grievance redressal of policyholders.

"In case the insurer does not appeal against the award of insurance ombudsman and does not implement the same within 30 days, a penalty of Rs 5,000 per day shall be payable to the complainant," the circular said.

Insurance companies have also been asked to put in place mechanisms to improve persistency, curb mis-selling and avoid financial loss to the policyholders and also enhancing long-term benefits to them.

Read More At: [Life insurers to mandatorily provide loan facility against policies: Irdai](#)

6 health insurance claim rule changes you should know

Cashless claims, claims from multiple insurers, lower waiting period, are some examples of new health insurance claim rules India's health insurance has seen multiple changes in recent times, with the Insurance Regulatory and Development Authority of India (IRDAI) overhauling multiple rules on health insurance claims.

What are the new health insurance claim rules?

Cashless health insurance claims anywhere

You need not pay the hospital, even if it is a non-network kind, and can claim the medical fees from the insurer immediately, while earlier, you had to pay out of your pocket and then, claim for a reimbursement after being discharged.

Cashless claim clearance time

Insurers have to clear claims within three hours of receiving it from the hospital during discharge and have one hour to clear cashless claims at the time of admission, cutting down delays.

Waiting period cut for pre-existing diseases

Earlier, if you had a specific health condition or disease at the time of buying your health insurance policy, you had to wait for 4 years to become eligible to claim insurance for that condition. This waiting period has now been reduced to 3 years.

No limitation for Ayush treatment

Ayush treatments including ayurveda, yoga, unani, siddha, and homoeopathy are now recognised by the Insurance regulator (IRDAI) and claims won't be rejected for Ayush treatment if you fulfill the specified conditions.

Moratorium period cut to 5 years

If you have a health plan with continuous coverage for five years, which includes portability and migration, the insurer cannot contest any claim on grounds of non-disclosure or misrepresentation, except in cases of fraud. This period was eight years earlier.

Claims with multiple insurers

You can make a claim for a single hospitalisation from multiple health insurance policies. For example, if you have two policies worth Rs.5 lakh and Rs.10 lakh, and you get a hospital bill of Rs.12 lakh, both the policies can be used to settle the claim.

Read more at: [6 health insurance claim rule changes you should know](#)

RRD AND ASSOCIATES

R R D AND ASSOCIATES



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WHAT WE SERVE



SPECIALIZED INTO

- ✓ Audit & Assurance (incl. Tax Audit, Statutory Audit etc)
- ✓ Internal audit / Management audit
- ✓ ESOP Valuation SBP (Share based payment) under Ind AS
- ✓ Valuations under various laws including Companies Act and IBBI
- ✓ Implementation of IFC, Drafting SOPs, Testing controls
- ✓ Company formation and assisting clients with Regulatory compliance for setting up business in India
- ✓ Setting up of Vigil and whistle-blower mechanism
- ✓ Developing, implementing and operationalizing Business Ethics and Code of Conduct for Employees and Directors
- ✓ Tax, Regulatory and Advisory
- ✓ Accounting advisory, Book Keeping and MIS services
- ✓ Project Financing for Term Loan & Working Capital Loan
- ✓ ECB Compliances, Returns, Hedge Accounting and Certification
- ✓ Tax effective Portfolio Management / Reshuffling advisory
- ✓ Regular Attest function
- ✓ Talent pool of proficient resources to our network firms and clients

OTHER SPECIALIZED SERVICES:

Assurance

1. Concurrent Audit
2. Statutory Audit
3. Stock Audit
4. Forensic Audit
5. Due Diligence Tax Audit

Operations & Risk Consultancy

1. Internal Audit
2. Review of Internal Financial Control
3. Drafting and assistance in SOP's
4. Fraud Investigations

Tax, Regulatory & Advisory

1. Consultancy under Direct and Indirect taxation
2. GST Implementation on Services
3. Assessment and Litigation Support
4. Filing of Returns under direct and indirect taxes
5. ROC Filings Regulatory compliances
6. RBI and SEBI fillings
8. Supporting in 15CA and 15CB filing

Accounting Advisory

1. Assistance in drafting and preparations of financial statement with respect to Ind-AS, IFRS, US GAAPs
2. Accounts receivables / payable reconciliations
3. Bank Reconciliations
4. Inventory Management support
5. Fixed Asset & Inventory verification
6. MIS, Budgeting

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