

# October 2024

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### Income Tax

- + **CBDT announces Implementation Date of Direct Tax Vivad Se Vishwas (DTVSV) Scheme, 2024:** The Finance Act, 2024 introduced the Direct Tax Vivad Se Vishwas Scheme, 2024 ('the Scheme'). Such scheme has been notified to be effective from October 1st, 2024. The scheme aims to resolve pending appeals in the case of income tax disputes by providing an option to the taxpayers for reduced payment of the disputed taxes/interest/penalties as the case maybe. The relevant rules & forms for enactment of the Scheme have also been notified. An old Appellant ('defined to mean such Appellants who were eligible but did not exercise the Vivad Se Vishwas scheme of 2020') would be required to pay more as settlement amount than a new Appellant. The Scheme also provides for lesser settlement amounts for taxpayers who opt for the scheme on or before 31.12.2024 as against those who file later. The CBDT further released a corrigendum correcting certain errors in the rules notified above.

[Notification No. 103/2024 dated 19.09.2024](#), [Notification No.104/2024 dated 20.09.2024](#), [Notification No.105/2024 dated 27.09.2024](#) and [Press Release dated 21.09.2024](#)

- + **Extension of due date for filing Audit Reports for AY 2024-25:** 30.09.2024 was the due date for filing the tax audit reports for the AY 2024-25 for certain taxpayers. On consideration of difficulties reported by the taxpayers, the CBDT extended such due date for filing the tax audit Reports to 7th October, 2024.

[Circular No. 10/2024 dated 29.09.2024](#) and [Press Release dated 30.09.2024](#)

### SEBI

- + **Modification in framework for valuation of investment portfolio of AIFs:** The Securities and Exchange Board of India (SEBI) on 19.09.2024, issued modification in the framework for the valuation of investment portfolio of AIFs.

The SEBI received representations from the AIF industry highlighting issues with regard to certain aspects of the valuation framework for AIFs. In this regard, based on the public comments on the consultation paper on "review of certain aspects of the framework for valuation of investment portfolio of AIFs", recommendations of AIPAC and internal deliberations, the following has been decided:

The following clauses have been modified:

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- A. Clause 22.1.1 of the Master Circular stands modified as under: 22.1.1 Valuation of securities, other than unlisted securities and listed securities which are non-traded and thinly traded, for which valuation norms have been prescribed under SEBI (Mutual Funds) Regulations, 1996 ('MF Regulations'), shall be carried out as per the norms prescribed under MF Regulations.
- B. Clause 22.2.2 of the Master Circular stands modified as under:
- 22.2.2 Change in valuation methodology/approach to comply with Clause 22.1 of Master circular for AIFs on 'Standardized approach to valuation of investment portfolio of AIFs', shall not be construed as 'Material Change'.
  - 22.2.3 Change in methodology/approach within the valuation guidelines / valuation norms prescribed for AIFs, shall not be construed as a 'Material Change'. However, upon such change, the valuation of the investment carried out based on valuation methodologies/approaches, both old and new, shall be disclosed to the investors to ensure transparency.

*Circular No. SEBI/HO/AFD/PoD-1/P/CIR/2024/123 dated on 19.09.2024*

## Company Law

- + Clarification on holding of AGM and EGM through VC or OAVM and passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013 read with Rules made thereunder-Extension of timeline-reg.:** The Ministry has issued an extension allowing companies to conduct their Annual General Meetings (AGMs) and Extraordinary General Meetings (EGMs) through Video Conferencing (VC) or Other Audio-Visual Means (OAVM).

### Key Updates:

- A. AGM Conduct Guidelines:
- Companies with AGMs due in 2024 or 2025 can hold these meetings via VC or OAVM until September 30, 2025, following the procedures outlined in General Circular No. 20/2020.
  - This extension does not alter the statutory timelines mandated by the Companies Act, 2013. Companies failing to meet these timelines may face legal repercussions.

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### B. EGM Conduct Guidelines:

- Companies may conduct EGMs through VC or OAVM, or transact items via postal ballot, in accordance with previous circulars, also up to September 30, 2025. All other existing requirements remain unchanged.

C. Implementation: Companies should plan their AGMs and EGMs accordingly, ensuring [Circular No. 09/2024 dated on 19.09.2024](#)

## FTP

**+ Extension of validity of licenses issued under heading 8471 of Chapter 84 of Schedule I (Import Policy) of ITC (HS), 2022:** The board has extended the existing licenses issued under heading 8471 of Schedule I (Import Policy) of ITC HS 2022 and therefore, all licenses issued under the said heading, will be valid till 31<sup>st</sup> December 2024. Hitherto, the said licenses were valid upto 30<sup>th</sup> September 2024. Further, board has also clarified that, new applications will also be permitted to be filed and will stand valid till 31<sup>st</sup> December 2024. Effective 01<sup>st</sup> January 2025, importers will have to apply for the fresh authorizations and the detailed guidelines in this regard will be released shortly.

[Circular No.07/2024-25 dated 24.09.2024](#)

**+ Easing of EPCG procedures under FTP to ensure reduction in compliance burden:** The DGFT has amended Chapter 5 of the Handbook of Procedures (HBP) 2023 for the EPCG Scheme to simplify compliance. Annual report on fulfillment of Export Obligation (EO) by June 30 following end of F.Y. is now replaced with one-time reporting after completion of first four-year block period and thereafter continuously until the expiry of valid EO period. Further, levy of late fees of Rs. 5,000/- for delay in reporting, has now been removed. However, reports on EO to be submitted under the new procedure will have to be certified by a Chartered Accountant, Cost Accountant, or Company Secretary.

[Public Notice No.24/2024-25 dated 20.09.2024](#)

**+ Amendment in Appendix 3 (SCOMET items) to Schedule- 2 of ITC (HS) Classification 2018:** Considering the amendments / additions made to the list of licensing authorities with respect to export / import of items covered under scheme of SCOMET (i.e., dual purpose goods) and to align them with global export control regimes, board has issued a notification announcing the Annual SCOMET Update – 2024 and has amended Appendix 3 (SCOMET Items) to Schedule-2 of ITC (HS) Classification of Export and Import Items, 2018.

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The updated list will be available on the DGFT portal under "Regulatory Updates" and will take effect from October 2, 2024. Exporters handling SCOMET items should review the changes to ensure compliance – Updated list can be accessed using the link [Appendix-3 \(SCOMET\)](#).

Notification No.25 dated 02.09.2024

### Customs

**+ Exports through courier mode eligible for export incentives:** The Board (CBIC) has introduced amendments to the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 to include export incentive schemes, namely the Duty Drawback, Remission of Duties and Taxes on Exported Products (RoDTEP) and the Rebate of State and Central Taxes and Levies (RoSCTL) schemes for exports made through courier mode. Other amendments/ modalities are briefly explained below:

1. Courier exports claiming export benefits will have to file Export General Manifest (EGM) instead of Courier Export Manifest (CEM). All other exports through courier should continue to submit CEM.
2. For exports under the Duty Drawback, RoDTEP and RoSCTL schemes, the Authorised Courier or his agent shall make entry of goods for export in the "electronic integrated declaration" system, referred to in the Shipping Bill (Electronic Integrated Declaration and Paperless Processing) Regulations, 2019.
3. Payments towards export incentives (i.e., Duty Drawback, RoDTEP, and RoSCTL), will be routed through the Indian Customs EDI System (ICES) available at International Courier Terminals (ICT), as facilities such as scroll generation and integration with PFMS is available in ICES.
4. The logistics of ICT will be used only for physical handling and examination of the goods, while the custom clearances will be handled on ICES application.

Notification No. 60/2024 – Customs (N.T.) dated 12.09.2024 and Circular No. 15/2024 – Customs dated 12.09.2024.

**+ Digitization of Customs Bonded Warehouse Procedures:** In a bid to facilitate ease of doing business and to modernize the Customs Bonded Warehouses, the Board has introduced a Warehouse Module on the ICEGATE portal. Currently this module enables the following:

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1. **Online filing of application for obtaining Warehouse License:** The authorized signatory of the applicant can log in to the ICEGATE Portal and submit the application online along with accompanying documents. The functionality of raising of any query by proper officer and applicant's response to query is also built in the module.

*DG Systems has issued detailed User Manual on Warehouse licensing.*

2. **Transfer of warehoused goods to another person and/ or another warehouse:** This Warehouse module/ workflow caters to online filing of request and processing of transfer of warehoused goods involving following scenarios:

- Change in ownership without change in the warehouse;
- Change in the warehouse with no change in ownership;
- Change in the warehouse as well as ownership of the goods.

The workflow caters, aspects related to recording of relevant particulars of seller and buyer, validation and reconciliation of quantity and value of goods under transfer, furnishing of warehousing (triple duty) bond by the buyer, acceptance of request by the Proper Officer (PO), etc... The integration of this form into the digital module is expected in due course until then, stakeholders must continue to be fill the form manually alongside other online procedures prescribed.

*DG Systems has issued detailed User Manual on Transfer of goods from Warehouse to another Warehouse.*

3. **Filing of monthly returns:** Currently this warehouse module enables licensees to upload scanned copies of monthly returns on the ICEGATE. Further the corresponding officer would be able to download these returns for appropriate action at their end. Filing of monthly returns using the webforms would be made available on the ICEGATE Portal in Phase 2 of the implementation.

*DG Systems has issued detailed User Manual on warehouse monthly returns.*

*Circular No. 19/2024 – Customs dated 30.09.2024*

## Goods and Services Tax (GST)

### + **Effective date notified for certain provisions inserted vide Finance (No. 2) Act, 2024:**

The date of implementation of certain provisions of the Finance (No. 2) Act, 2024 have been notified. The list of provisions along with the effective date is provided as Annexure to this Communique. Notification No. 17/2024-Central Tax dated 27.09.2024

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- + **GST Appellate Tribunal empowered to examine anti-profiteering matters from 01.10.2024:** With effect from **01.10.2024**, the Central Government has empowered the Principal Bench of GST Appellate Tribunal to examine and adjudicate all anti-profiteering matters i.e. matters relating to whether ITC availed by the supplier/ reduction in tax rates have resulted in commensurate reduction of price of goods and services supplied by the registered person. [Notification No. 18/2024-Central Tax dated 30.09.2024](#)
  
- + **Anti-profiteering Authority to cease accepting applications from 01.04.2025:** The Central Government has notified **01.04.2025** as the last date for acceptance of new applications for examination of anti-profiteering matters by the Anti-Profiteering Authority (Competition Commission of India and Principal Bench of GST Appellate Tribunal). [Notification No. 19/2024-Central Tax dated 30.09.2024](#)
  
- + **GST News and Advisory:**
  - **Introduction of 'Invoice Management System' facility on the GST portal:** Effective 01.10.2024, the GSTN has implemented a new functionality on GST portal called 'Invoice Management System' (IMS), which facilitates taxpayers in matching of their records/invoices vis-a-vis issued by their suppliers for availing the correct Input Tax Credit (ITC) and the correction/ amendment of invoices issued by suppliers. The salient features of the same are as below:

Particulars	Details
IMS Dashboard	The invoices saved by the supplier on GST portal for filing GSTR-1/ 1A/ IFF would be reflected in the IMS dashboard of the recipient.
Actions to be taken by the recipient on IMS	<ul style="list-style-type: none"> <li>▪ <b>Accept:</b> These are accepted records and will become part of 'ITC Available' section of GSTR-2B. These will be auto-populated in GSTR-3B as 'Eligible ITC'.</li> <li>▪ <b>Reject:</b> These will not be considered for GSTR-2B generation.</li> <li>▪ <b>Pending:</b> These will not be considered for GSTR-2B generation for the month and will remain on IMS dashboard till it is either accepted / rejected. These invoices will be carried forward for subsequent tax periods, but ITC on the same can be availed only till the time limit prescribed in Section 16(4) i.e., GSTR-3B filed <u>on or before 30th November of subsequent FY.</u></li> </ul>

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Particulars	Details
	<ul style="list-style-type: none"> <li>▪ <b>No action:</b> These will be treated as deemed accepted at the time of GSTR-2B generation.</li> </ul>
Time limit to take action by the recipient	<ul style="list-style-type: none"> <li>▪ Actions can be taken from the time of saving the records in GSTR 1 / IFF / 1A by the supplier till the recipient files their corresponding GSTR-3B.</li> <li>▪ Accepted / rejected documents will flow to GSTR-2B only when the supplier has <b>filed</b> the relevant GSTR-1/ 1A/ IFF (applicable for monthly return filers).</li> </ul>
Pending action shall not be allowed in following scenarios	<ul style="list-style-type: none"> <li>▪ Original Credit note</li> <li>▪ Upward amendment of the credit note, <u>irrespective of the action taken by recipient on the original credit note</u></li> <li>▪ Downward amendment of the credit note, <u>if original credit note was rejected by recipient.</u></li> <li>▪ Downward amendment of invoice/ debit note, <u>where original Invoice/ Debit note was accepted by recipient</u> and respective GSTR 3B has also been filed.</li> </ul>
Amendment/ Correction in the invoice	<ul style="list-style-type: none"> <li>▪ Taxpayers can act on the amended documents i.e., invoice, credit or debit note, only when an action is taken on original document.</li> <li>▪ Corrections (amendment) made by the supplier to the already saved invoice at the time of filing GSTR-1 will replace the originally saved invoice, irrespective of the action taken by the recipient.</li> <li>▪ Amendments through GSTR-1A, will be reflected in IMS but will flow to GSTR-2B of the recipient in the subsequent tax period only.</li> <li>▪ In case the original and amended records belongs to 2 different GSTR-2B return period, it is mandatory to take action on the original record and file the respective GSTR-3B before taking action on the amended record. If the record belongs to same period, only the amended record will be considered for GSTR-2B.</li> </ul>
Supplies which do not go to IMS and will be directly populated in the GSTR -3B	<ul style="list-style-type: none"> <li>▪ Inward RCM supplies, where supplier has reported in the Table 4B of IFF / GSTR 1 or GSTR 1A.</li> <li>▪ Supplies where ITC is not eligible due to applicability of Section 16(4) of CGST Act, 2017 or on account of PoS Rule.</li> </ul>



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Particulars	Details
Cases where the liability of the supplier will increase in GSTR-3B for the subsequent tax period	<ul style="list-style-type: none"> <li>▪ Original Credit note rejected by the recipient.</li> <li>▪ Upward amendment of the credit note rejected by the recipient, <i>irrespective of the action taken by recipient on the original credit note.</i></li> <li>▪ Downward amendment of the credit note rejected by the recipient, <i>if original credit note was rejected by him.</i></li> <li>▪ Downward amendment of Invoice/ Debit note rejected by the recipient, <i>where original Invoice/ Debit note was accepted by him and respective GSTR 3B has also been filed.</i></li> </ul>
QRMP Taxpayer	In this case, the GSTR-2B will not be generated for month M1 and M2, the same will be generated on <u>Quarterly basis</u> only.
Other key points to be noted	<ul style="list-style-type: none"> <li>▪ The GSTR-2B from IMS will be required to be mandatorily recomputed by the recipient, in case of any change in action already taken on concerned records or any action date of generation of draft GSTR-2B (14<sup>th</sup> of the month).</li> <li>▪ Any change made in a record/ invoice before filing GSTR-1/1A/IFF by the supplier will reset the record's status on the recipient's IMS dashboard.</li> <li>▪ The system will generate GSTR-2B of a return period only, if GSTR-3B of previous return period is filed.</li> </ul>

Detailed manual of the IMS can be accessed using the link- [Manual](#)

The FAQ's about IMS can be accessed using the link- [FAQ](#)

[GST News and Updates dated 03.09.2024](#); [GST News and Updates dated 17.09.2024](#)

and [GST News and Updates dated 22.09.2024](#)

- **Threshold limit of Rs. 2.5L for reporting of supplies to un-registered taxpayers in Form GSTR1/GSTR 5 to continue:** The threshold limit value of supply to report the invoice-wise details of inter-state unregistered dealers (B2C supplies) was reduced to Rs. 1 Lakh w.e.f. 10.07.2024. However, the same has now been deferred temporarily as the relevant facility is currently not available on the GST portal. Accordingly, taxpayers should continue to report invoice-wise details of the inter-state B2C supplies where the value exceeds Rs. 2.5 Lakhs until further notice.

[GST News and Updates dated 03.09.2024](#)

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- **Extension granted for reporting of ITC Reversal Opening Balance till 31<sup>st</sup> October, 2024:** The GSTN had introduced a ledger namely 'Electronic Credit Reversal and Re-claimed Statement' on the GST portal effective August 2023, for accurate reporting of ITC reversals and reclaiming of ITC reversed earlier and reporting of cumulative ITC reversal as an opening balance. Now, the GSTN has re-opened the 'Electronic Credit Reversal and Re-claimed Statement' with the following instructions:
  - For reporting purposes, the opening balance should include ITC reversals made till July 2023 return period only, as after this period the balance is already available in the ledger.
  - Any cumulative ITC reversals, where ITC has been reversed but not yet reclaimed as on July 2023 (i.e. after filing July 2023 return), must be reported as the opening balance between 15<sup>th</sup> September 2024 to 31<sup>st</sup> October 2024.
  - Taxpayers are given an option to amend the opening balance (3 chances) till 30<sup>th</sup> November 2024.

Taxpayers should report the opening balance correctly within the extended timelines, as the system will soon not allow reclaim of ITC which is in excess of the amount reversed earlier.

*GST News and Updates dated 17.09.2024*

- **Archival of GST Returns data on GST portal to be put on hold temporarily:** The GSTN has stated that the GST returns data will not be available for view / download beyond 7 years on the GST portal and this data archival exercise will be a monthly activity going forward. Effectively, data for July 2017 returns had been archived on 1st August, 2024 and data for August 2017 had been archived on 1st September, 2024. Data for September 2017 will be archived on 1st October, 2024 and so on.

However, owing to requests from the industry and the difficulties faced thereby, this data archival exercise by the GSTN has been put on hold for now and all the archived data (i.e. data pertaining to returns for the month of July 2017 and August 2017), has been currently restored on the GST portal. The GSTN has stated that the archival exercise of GST returns data will be implemented again soon with adequate prior notice.

*GST News and Updates dated 24.09.2024 and GST News and Updates dated 29.09.2024*

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- **Notices/Orders issued without digital signatures by the tax authorities to be considered valid:** With specific reference to the validity of documents issued by tax officers on the GST common portal such as Show Cause Notices (SCN), Assessment Orders, Refund Orders etc. that do not contain digital signatures on the downloaded PDFs, the GSTN has clarified that these documents are generated from the officer's login through Digital Signatures and hence, do not require a physical signature.

The documents are stored in the GST system in JSON format containing the details with the issuing officer's digital signature and the taxpayers can verify the validity of these documents pre- and post-login on the GST portal by navigating to the following path: [www.gst.gov.in](http://www.gst.gov.in) > Dashboard > Services > User Services > Verify RFN.

*GST News and Updates dated 26.09.2024*

- + **Clarification on availability of input tax credit on demo vehicles used by authorized dealers:** Authorized dealers maintain demo vehicles for trial runs and feature demos to potential buyers at their sales outlets, in accordance with the dealership norms. These vehicles are kept for a specified mandatory period and are later sold by the dealer at a written-down value, along with the applicable taxes. The availability of ITC on such demo vehicles having seating capacity of not more than 13 persons is clarified below:

Particulars	Clarification
Demo vehicles used in further supply of motor vehicles (seating capacity not more than 13 persons)	<ul style="list-style-type: none"> <li>▪ Demo vehicles used by the authorized dealers help potential buyers to decide on purchasing a vehicle which in turn help in promoting sales of similar vehicles.</li> <li>▪ This can be considered as 'used for making further supply of similar type of motor vehicles'.</li> <li>▪ Therefore, ITC on demo vehicles are not blocked under Section 17(5)(a) of CGST Act, 2017.</li> </ul>
Motor vehicles used for transportation of employees	<ul style="list-style-type: none"> <li>▪ This cannot be considered as 'used for making further supply of such motor vehicles'. Hence, ITC on the motor vehicles used for such purposes would be blocked.</li> </ul>
Authorized dealers, acting as agents / service providers to the manufacturers by offering marketing services and facilitating vehicle test drives	<ul style="list-style-type: none"> <li>▪ In this case, the agent is not directly involved in purchase and sale of the vehicles and the sale invoices for the vehicle is directly issued by the vehicle manufacturer.</li> <li>▪ The dealer purchases demo vehicles for test drives and may sell them at a later date by paying GST, as per the agreement with the manufacturer.</li> </ul>

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Particulars	Clarification
	<ul style="list-style-type: none"> <li>▪ As the dealer is only providing marketing services and not making supply of vehicles on their own account, the demo vehicle is not considered to be used for further supply.</li> <li>▪ ITC on such demo vehicles is blocked for the dealer.</li> </ul>
ITC on demo vehicles capitalized in the books of accounts by the dealers	<ul style="list-style-type: none"> <li>▪ Availability of ITC on capital goods is not affected by the capitalization of such demo vehicles in the books as they are still used / intended to be used in the course / furtherance of business.</li> <li>▪ If depreciation is claimed on the tax component of the capitalized asset under the Income-tax Act, 1961, the input tax credit on that tax component is not allowed.</li> <li>▪ If the capitalized demo vehicle is later sold, the authorized dealer must reverse the ITC to the extent of higher of :               <ol style="list-style-type: none"> <li>a. ITC availed (less) ITC for the remaining useful life, calculated in months on a pro-rata basis considering useful life of five years. (or)</li> <li>b. Tax on transaction value of such goods</li> </ol> </li> </ul>

Circular No. 231/25/2024-GST dated 10.09.2024

- + Clarification w.r.t. advertisement services by Indian Company to Foreign clients:** Where a foreign entity engages an Indian advertising company / agency for advertisement of its goods /services, the Indian advertising company / agency provides a comprehensive range of advertising services to a foreign client. The media owner raises an invoice to the advertising agency for the inventory and the advertising agency raises an invoice to the foreign client for advertisement services.

Issue	Clarification
Whether the advertising company can be considered as an 'intermediary' between the foreign client and media owner?	<p>No, the advertising company provides advertisement services including resale of media space and cannot be considered as 'intermediary services'. Note:</p> <ul style="list-style-type: none"> <li>▪ There exists no agreement of supply of services between the foreign client and the media company.</li> <li>▪ The agreement between (a) advertising company &amp; foreign client and (b) media company and advertising company are in the nature of 2 distinct principal-to-principal supplies.</li> </ul>

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Issue	Clarification
	<ul style="list-style-type: none"> <li>▪ The advertising company provides services to its foreign clients on its own account and does not act as an agent.</li> </ul>
<p>Whether the representative of the foreign client in India / target customer can be considered as 'recipient of service'?</p>	<p>The recipient of advertising services provided by the advertising company, is the foreign client as:</p> <ul style="list-style-type: none"> <li>▪ Agreement is between the foreign client and the advertising company.</li> <li>▪ Invoice is issued to the foreign client.</li> <li>▪ The foreign client is liable to pay consideration and not the representative of the foreign client based in India or the target audience of the advertisements.</li> </ul>
<p>What is the Place of Supply of such services provided by the advertising company? Whether they can be considered as 'performance based services' under Section 13(3) of IGST Act, 2017?</p>	<p>The Place of Supply of the such services would be the location of the recipient (which is outside India). They can also qualify as 'export of services' subject to the fulfilment of specified conditions in Section 2(6) of IGST Act, 2017. They do not qualify as 'performance based services', on account of the fact that:</p> <ul style="list-style-type: none"> <li>▪ Such services do not involve goods which are required to be made physically available.</li> <li>▪ Such services do not require physical presence of the recipient with the advertising company to avail the services.</li> </ul>
<p>What if the advertising company in India merely acts an agent of the foreign client?</p>	<p>In such a case, the advertising company will be regarded as an 'intermediary' and the Place of Supply of such services will be the location of the supplier i.e location of the advertising company. Note:</p> <ul style="list-style-type: none"> <li>▪ Agreement for providing media space and advertisement broadcast exists directly between the foreign client and the media company.</li> <li>▪ The media owner directly invoices the foreign client and receives the payment also directly.</li> <li>▪ The advertising company merely facilitates the provision of services between the foreign clients and media owner and does not act on its own account.</li> </ul>

*Circular No. 230/24/2024-GST dated 10.09.2024*

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- + Clarification on 'place of supply' for data hosting services provided by Indian service providers to cloud computing providers located outside India:** The CBIC has clarified certain issues in relation to 'place of supply' w.r.t the data hosting services provided by suppliers located in India as under:

Issues	Clarification
<p>Whether the data hosting service provider qualifies as 'intermediary' between the cloud computing providers and end customers and whether the said services qualify as intermediary services?</p>	<p>No, the services provided by data hosting service provider to its overseas cloud computing service provider cannot be considered as 'intermediary services'. Note:</p> <ul style="list-style-type: none"> <li>• The data hosting service provider generally handles all aspects of data centre (including rent, software hardware infrastructure, IT etc.) to provide hosting services to cloud computing service providers.</li> <li>• The cloud computing service provider provides cloud-based applications and software services are provided to end customers / subscribers.</li> <li>• There is no contact between the data hosting service providers and end customers.</li> <li>• The data hosting service provider operate on a <u>principal-to-principal basis</u> supplying their services directly to cloud providers.</li> </ul>
<p>Whether the data hosting services provided can be considered as services in relation to the goods "made available" by the recipient?</p>	<p>No, the data hosting services provided cannot be considered as services in relation to the goods "made available" by the recipient. Note:</p> <ul style="list-style-type: none"> <li>• The data hosting service providers own and handle the complete data centre.</li> <li>• The overseas cloud computing service providers (recipient) cannot be considered to own the infrastructure and make the same physically available.</li> <li>• Even in cases where hardware is provided by the recipient, the data hosting service provider handles all aspects on the data centre and it cannot be said that data hosting services are provided in relation to the said goods.</li> </ul>

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Issues	Clarification
Whether the data hosting services are provided directly in relation to immovable property?	No, the data hosting services are not passive supply of a service directly in respect of immovable property but are regarding supply of comprehensive services related to data hosting.
Place of Supply (POS) of data hosting services provided by the data hosting service provider in India to cloud computing service provider.	<ul style="list-style-type: none"> <li>The POS for the said service does not fit into any specific provisions and hence, should be determined as per the default provision i.e. location of the recipient of service, which is outside India.</li> <li>Such supplies can be considered as 'export of services' subject to fulfilment of the other conditions.</li> </ul>

*Circular No. 232/26/2024-GST dated 10.09.2024*

- + Regularization of refund of IGST permitted, where exporters had initially imported inputs without payment of IGST / Compensation Cess, but taxes are paid later:** Claim of refund of IGST paid on export of goods / services is restricted, where the exporter has availed the benefit of Notifications No. 78/2017-Customs dated 13.10.2017 (imports by Export Oriented Units (EOUs) incl. STPI) and 79/2017-Customs dated 13.10.2017 (imports under Advance Authorization and EPCG) and has accordingly, not paid IGST & Compensation Cess on the imports (*Rule 96(10) of the CGST Rules, 2017*).

The CBIC has now clarified that where the imports were made initially, without payment of IGST & Compensation Cess (*i.e. by availing benefits under the notifications mentioned above*) and IGST and compensation cess are paid at a later date (along with interest) and the Bill of Entry in respect of the import of the said inputs has been reassessed through the jurisdictional Customs authorities, the claim of refund will not be considered to be in contravention of the Rule 96 (10) of the CGST Rules, 2017 and hence, can be regularised.

*Circular No. 233/27/2024-GST dated 10.09.2024*

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### Annexure

The list of provisions of Finance (No. 2) Act, 2024 along with the effective date notified is summarized below

1. The provisions implemented from **27.09.2024** is tabulated below:

Section Ref Finance Act	Particulars	Gist of the provisions
118 & 150	<p>Section 16 of CGST Act, 2017</p> <ul style="list-style-type: none"> <li>▪ Relaxing the time limits to avail ITC for the initial 4 years of GST</li> <li>▪ Claim of ITC in respect of suppliers whose registrations are cancelled</li> </ul>	<ul style="list-style-type: none"> <li>▪ Time limit for claiming ITC on invoice / debit note of FY's 2017-18 to 2020-21 in GSTR-3B is extended to 30<sup>th</sup> November 2021. <i>However, no refund would be granted of taxes already paid / ITC reversed.</i></li> <li>▪ Time limit for availing ITC in cases where a cancelled vendor's GSTIN is subsequently revoked by an Order and the original time limit for claim of such ITC has not expired as on the date of cancellation of vendor GSTIN is: <ul style="list-style-type: none"> <li>a. Earlier of GSTR-3B filed upto 30<sup>th</sup> November of following FY or filing GSTR-9; or</li> <li>b. GSTR-3B filed for the period of cancellation, if filed within 30 days from the date of order of revocation,</li> </ul> <p>Whichever is later.</p> <p><i>The above provisions will be <u>effective retrospectively</u> from 01.07.2017.</i></p> </li> </ul>
142 & 148	<p>Section 109 &amp; 171 of CGST Act, 2017</p> <p>Govt. empowered to notify:</p> <ul style="list-style-type: none"> <li>▪ Sunset clause for accepting anti-profiteering cases</li> <li>▪ GSTAT to handle anti-profiteering cases</li> </ul>	<ul style="list-style-type: none"> <li>• The Anti-Profiteering Authority will not accept new applications for verification of anti-profiteering matters from 01.04.2025.</li> <li>• Verification of anti-profiteering matters to be undertaken only by the Principal Bench of GSTAT. Government may notify other class of cases, which can only be heard by Principal bench of GSTAT.</li> <li>• Except the cases to be dealt exclusively by the Principal Bench of GSTAT, the President of GSTAT can distribute/ transfer cases amongst the Benches.</li> </ul>



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2. The provisions which will be implemented from **01.11.2024** is tabulated below:

Section Ref Finance Act	Particulars	Gist of the provisions implemented
114, 151 & 155	Section 9 of CGST Act, 2017 Extra Neutral Alcohol to be outside the purview of GST	Un-denatured extra neutral alcohol or rectified spirit used for manufacturing alcoholic liquor for human consumption is kept outside the purview of GST.
115, 120, 123, 125 to 127, 129 to 134, 136 to 141, 145	Section 74A of CGST Act, 2017 Common time limit for issuance of demand notices and orders (mens rea or otherwise)	Section 74A to the CGST Act, 2017 has been introduced (effective FY 2024-25), to set a common time limit for issuance of SCN and order (i.e., 42 months & 54 months from due date of furnishing relevant Annual Return, respectively) relating to: a. Unpaid or short paid GST b. ITC wrongly availed or utilized or c. Erroneous GST refunds, regardless of whether it involves mens rea or otherwise. <i>Accordingly, adjudication/ recovery proceedings u/s 73 &amp; 74 is restricted upto FY 2023-24 only.</i>
116, 152, 156 & 157	Section 11A of CGST Act, 2017 Power not to recover GST not levied or short-levied as a result of general trade practice.	Government to allow regularization of non-levy or short levy of GST where tax was short / not paid as a result of established common trade practices.
117 & 122	Section 13 and 31 of CGST Act, 2017 Time of supply (TOS) for services liable to tax under RCM and time limit for issuing of self-invoices	<ul style="list-style-type: none"> <li>▪ TOS for RCM supplies is distinguished based on the status of supplier i.e., whether or not registered. Accordingly, TOS for RCM transactions would be: <ul style="list-style-type: none"> <li>a. Date of payment / 60 days from date of invoice issued by supplier – if supplier is registered</li> <li>b. Date of payment / date of issuance of self-invoice by the recipient – if supplier is unregistered &amp; recipient is required to issue self-invoice</li> </ul> </li> <li>▪ Government is empowered to prescribe time limit to issue self-invoices in case RCM supplies, where recipient is unregistered.</li> </ul>

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Section Ref Finance Act	Particulars	Gist of the provisions implemented
119	Section 17 of CGST Act, 2017 Eligibility to claim credits of taxes paid in pursuance to any proceedings by the tax office	<ul style="list-style-type: none"> <li>▪ The restriction on claiming ITC in relation to tax paid under Section 129 (detention / seizure of goods / conveyances in transit) and Section 130 (confiscation of goods / conveyances) has been removed.</li> <li>▪ Further, the taxes paid under Section 74 i.e., on account of fraud/ willful misstatement/ misrepresentation for any period upto FY 2023-24 is ineligible.</li> </ul>
121	Section 30 of CGST Act, 2017 Conditions for revocation of cancellation of GSTIN	The Government is empowered to prescribe conditions to be fulfilled for revocation of cancellation of GST registration.
124	Section 39 of CGST Act, 2017 Frequency of return filing by TDS deductors	<ul style="list-style-type: none"> <li>• The Government is empowered to notify the due date for filing return of tax deducted by the TDS deductors. <i>Hitherto, it was defined in the GST Act that such return shall be filed within 10<sup>th</sup> of following month.</i></li> <li>• Hereafter, the TDS deductors are required to file Nil returns in case no TDS is deducted during that tax period.</li> </ul>
128 & 153	Section 54 of CGST Act, 2017 Refund on zero rated supply of goods subject to export duty	No refund will be allowed on zero rated supply of goods, with or without payment of tax, where such zero rated supply of goods is subject to export duty. <i>Hitherto, refund was not allowed only on zero rated supply of goods without payment of tax, subject to export duty.</i>
135	Section 70 of CGST Act, 2017 Summons - Appearance by authorized representative	Authorized representative, if permitted by the Officer, may appear in response to any summons to make any statement or furnish any details, as the case may be. <i>Hitherto, only the summoned person had to appear, in person and authorized representatives were not allowed.</i>
141, 143 & 154	Section 107, 112 of CGST Act, 2017	The maximum amount of deposit to be made at the time of filing the appeals before the Appellate Authority & GSTAT is as follows:

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Section Ref Finance Act	Particulars	Gist of the provisions implemented
	Maximum amount of pre-deposit for filing appeals reduced	<ul style="list-style-type: none"> <li>▪ <u>First Appeals</u>: 10% of disputed tax dispute (with a cap of Rs. Rs. 40 crores: CGST, SGST &amp; IGST)</li> <li>▪ <u>Tribunal appeals</u>: Additional 10% of disputed tax (with a cap of Rs. Rs. 40 crores: CGST, SGST &amp; IGST)</li> </ul>
144	Section 122 of CGST Act, 2017 Specific penalty applicable only if E-Commerce Operators (ECO) liable to collect tax at source	<p>Only the ECOs, who are liable to collect tax at source, are made liable for a penalty of higher of Rs. 10,000/- or tax involved for contravention of certain provisions relating to supplies of goods:</p> <ol style="list-style-type: none"> <li>i. Made through ECOs by unregistered persons, or</li> <li>ii. Permitting inter-State supply of goods / services by persons not eligible to do so, or</li> <li>iii. Failing to provide accurate details about supplies made by exempted persons through their platform.</li> </ol> <p><i>The above provisions will be <u>effective retrospectively</u> from 01.10.2023.</i></p> <p><i>Hitherto, such penalty was also leviable on ECOs, who are liable to pay tax on the restaurant (incl. cloud kitchens), housekeeping, accommodation and renting of motor cabs services supplied through the platform of such ECOs.</i></p>
146	Section 128A of CGST Act, 2017 Amnesty Scheme to provide conditional waiver of interest / penalty relating to demands raised under Section 73, for FYs 2017-18, 2018-19 & 2019-20	<p>An Amnesty scheme has been introduced providing for full waiver of interest and penalty for the tax demands pertaining to FYs 2017-18, 2018-19 and 2019-20, subject to the following conditions:</p> <ul style="list-style-type: none"> <li>▪ Taxes are disputed under Section 73 of the CGST Act, 2017 (i.e., non-fraud cases) and the same is fully paid by the specified date (notified as 31.03.2025 vide Notification No. 21/2024-CT dated 08.10.2024)</li> <li>▪ Proceedings are ongoing and the Adjudicating Authority/ Appellate Authority/ Appellate Tribunal is yet to pass the Order</li> <li>▪ Appeals preferred before the Appellate Authority/ Appellate Tribunal or Writ petitions made before any Court shall be withdrawn</li> </ul>

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Section Ref Finance Act	Particulars	Gist of the provisions implemented
		<ul style="list-style-type: none"> <li>In case the Appeal is preferred by tax authorities, additional taxes as per the Order issued by Appellate Authority / Court should be paid within 3 months from the date of Order</li> </ul> <p>Any interest / penalty already paid before implementing this scheme will not be eligible for refund.</p>
147	Section 140 of CGST Act, 2017 Enabling availment of transitional credit by ISD in respect of invoices received prior to 01.07.2017	<p>ITC on any service received by an Input Service Distributor (ISD) before 01.07.2017 is eligible, irrespective of the date of receipt of the relevant invoice for such services.</p> <p><i>The above provisions will be effective retrospectively from 01.07.2017.</i></p>
149	Schedule III of CGST Act, 2017 Activities in the insurance sector to be treated 'neither as a supply of goods nor a supply of services'	<ul style="list-style-type: none"> <li>Apportionment of co-insurance premium by the lead insurer to the co-insurers for jointly supplied insurance services, as long as the lead insurer pays the tax on the gross premium paid by lead insurer.</li> <li>Services provided by an insurer to a reinsurer, where ceding / reinsurance commission is deducted from the reinsurance premium, provided the reinsurer pays the tax on the gross reinsurance premium including the commission.</li> </ul>

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