

GST Circulars and Notifications

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➤ Clarification regarding the requirement of reversal of input tax credit by electronic commerce operators in respect of supplies made under section 9(5) of the CGST Act

[Circular No. 240/34/2024-GST dated 31st December 2024](#)

- Electronic commerce operators (**ECOs**) make supplies under two categories:
 - (i) Supplies notified under Section 9(5) of the CGST Act, for which they are liable to pay tax as if they are the suppliers of the said services and
 - (ii) Supplies of their own services, such as providing an electronic platform, for which the ECO charges a platform fee/commission.
- The ECO avails input tax credit (**ITC**) on inputs and input services used to provide its own services, such as platform services.
- It is clarified that ECO liable to pay tax under Section 9(5) of the CGST Act for specified services is not required to reverse the ITC on inputs and input services proportionately under Section 17(1) or Section 17(2) of the CGST Act, for the supplies made under Section 9(5).
- Further, ECO is required to pay the full tax liability under Section 9(5) through the electronic cash ledger. ITC cannot be utilized for payment of tax liability under section 9(5).
- However, ITC availed by the ECO can be utilized for discharging tax liabilities related to its own taxable supplies, such as the provision of platform services.

➤ Clarification on availability of ITC for goods delivered under ex-works contract

[Circular No. 241/35/2024-GST dated 31st December 2024](#)

- Under Ex-Works (**EXW**) contracts, the property in goods passes from the Original Equipment Manufacturer (**OEM**) to the dealer when the goods are handed over to the transporter at the OEM's factory gate. The OEM arranges transport (and insurance) on behalf of the dealer.
- Dealers account for the invoice and avail ITC when the goods are handed over to the transporter, not upon the physical receipt of the goods at their business premises.
- However, certain field formations have contended that ITC can only be claimed once the goods are physically received by the dealer at their premises. Show cause notices have been issued to dealers for wrongly claiming ITC prior to the physical receipt of goods. To address this, the Board has issued clarifications as follows:
 - ▲ Under the EXW contract, where the goods are delivered by the supplier to the recipient (or a third party, such as a transporter, on behalf of the recipient) at the supplier's place of business, the property in the goods is transferred to the recipient at the time of handover, whether to the recipient or to the transporter, as per the terms of the contract. Hence, the goods are deemed to have been "received" by the recipient at the time of handover, as per Section 16(2)(b) of the CGST Act.
 - ▲ It has been clarified that a registered person can claim ITC under Section 16(1) if the goods are used for business purposes and satisfy the conditions outlined in Sections 16 and 17 of the CGST Act.
 - ▲ However, it is important to note that if the goods are diverted for non-business purposes at any point, either before or after physically receiving them at the business premises, the registered person will not be entitled to claim ITC.
 - ▲ Furthermore, if, after receiving the goods, they are lost, stolen, destroyed, written off, or disposed of as gifts or free samples, the registered person will not be entitled to ITC on those goods, as per Section 17(5)(h) of the CGST Act.

➤ Clarification on place of supply of Online Services supplied by the suppliers of services to unregistered recipients

[Circular No. 242/36/2024-GST dated 31st December 2024](#)

There have been reports from field formations regarding non-compliance in recording the correct place of supply on invoices for online services provided to unregistered recipients. Despite the requirement under Section 12(2)(b)(i) of the IGST Act and Rule 46 of the CGST Rules to mention the recipient's state and declare the place of supply accordingly, many suppliers are mistakenly declaring the place of supply based on their own location, as per Section 12(2)(b)(ii). This error is causing misallocation of revenue to the wrong state. Therefore, CBIC has provided the following clarification:

- Suppliers making a supply of services to unregistered recipients is required to mandatorily record the name of the recipient's state on the tax invoice, irrespective of the supply value. This applies to online money gaming, taxable services by or through electronic commerce operators, and online information and database access or retrieval (OIDAR) services.
- The name of the state recorded on the tax invoice shall be deemed as the recipient's address for determining the place of supply under Section 12(2)(b)(i) of the IGST Act, making the recipient's location the place of supply.
- All online services provided to unregistered recipients, whether directly by the supplier or through an electronic commerce operator, are covered under Rule 46(f) of the CGST Rules. This includes services like e-newspapers, OTT platforms, online telecom services, and mobile applications.
- Suppliers must ensure mechanisms are in place to collect the recipient's State details before providing such services. The recorded State name will serve as the recipient's address for place of supply determination.
- Failure to comply with these requirements may result in penalties under Section 122(3)(e) of the CGST Act for incorrect invoicing, including the failure to record the correct State name.
- Suppliers are required to declare the place of supply based on the recipient's State in their FORM GSTR-1/1A returns.

➤ Clarification on various issues pertaining to GST treatment of vouchers

[Circular No. 243/37/2024-GST dated 31st December 2024](#)

Issue	Clarification
What is the GST treatment of vouchers recognized as pre-paid instruments by RBI?	Vouchers recognized by RBI as pre-paid instruments and used to settle obligations are considered as "money". Transactions in such vouchers are excluded from the definition of goods and services under the CGST Act (Section 2(75) & 2(118)). Therefore, no GST is applicable.
What is the GST treatment of vouchers not recognized by RBI?	Vouchers not recognized by RBI as pre-paid instruments are considered "actionable claims." As per Schedule III (Entry 6) of the CGST Act, actionable claims (other than specified ones) are not considered as supply of goods or services, and thus, no GST is applicable.
What is the GST treatment of voucher distribution on a Principal-to-Principal (P2P) basis?	When vouchers are distributed on a P2P basis, distributors purchase them at a discounted rate and sell them to sub-distributors or end customers. As the transaction in vouchers is neither supply of goods nor supply of services, therefore, pure trading of vouchers would not constitute supply of goods or supply of services. Accordingly, such trading of vouchers would not be leviable to GST as per section 9 (1) of CGST Act.

Issue	Clarification
What is the GST treatment of voucher distribution via agents on commission/fee basis?	When vouchers are distributed through distributors/sub-distributors/agents on a commission/fee basis, the relationship is on a principal-agent basis. The agents do not own the vouchers but perform activities like marketing and promotion for a commission/fee. In such cases, GST is payable by the distributor/sub-distributor/agent on the commission/fee received for these services, as per the supply of services to the voucher issuer.
What is the GST treatment of additional services (advertisement, marketing, tech support, etc.) provided to voucher issuers?	When additional services such as advertisement, co-branding, marketing, promotion, customization, technology support, and customer support are provided by distributors, sub-distributors, or third parties to the voucher issuer for a service fee, commission, or any other charge, these services are subject to GST. The GST is applicable at the applicable rate on the service fee, as per the terms of the contract/agreement between the service provider and the voucher issuer.
What is the GST treatment of unredeemed/unused vouchers (breakage)?	No GST is applicable on the amount attributable to unredeemed vouchers (breakage), as there is no underlying supply of goods or services, and no consideration is received for goods or services.

Instructions

Guidelines for arrest and bail in relation to offences punishable under the CGST ACT, 2017

[Instruction No. 01/2025-GST dated 13th January 2025](#)

- In the case of **Pankaj Bansal v. Union of India** and **Prabir Purkayastha v. State (NCT of Delhi)**, the Hon'ble Supreme Court distinguished between the terms '**reasons for arrest**' and '**grounds of arrest**'. The Court emphasized that the '**reasons for arrest**' are formal, general factors such as preventing further crimes, ensuring the investigation is not hindered, protecting evidence, or preventing threats to witnesses. These reasons are standard for any arrest, regardless of the individual circumstances.
- On the other hand, the '**grounds of arrest**' are more specific and relate to the individual facts that justify the arrest of a particular person. These grounds must provide sufficient detail to inform the arrested person of the exact basis for their arrest, enabling them to defend themselves, seek bail, and contest the arrest if necessary.
- The Court clarified that while '**reasons for arrest**' apply generally to anyone arrested for a crime, '**grounds of arrest**' must be tailored to the individual circumstances of the accused and must be explicitly detailed in writing in the Arrest Memo. This ensures transparency and protects the rights of the arrested person.
- In light of this judgment, the relevant legal instruction (Para 4.2.1 of [Instruction 02/2022-23 GST \(Investigation\) dated 17.8.2022](#)) has been amended to emphasize that the grounds of arrest should be explained to the arrested person and provided in writing as an annexure to the Arrest Memo. The arrested person should acknowledge this in writing at the time of the Arrest Memo's service. This amendment aligns with the Supreme Court's ruling, ensuring that the grounds of arrest are clearly communicated and documented.

Notifications

Key GST Rate Notifications

Notification No.	Summary
01/2025-Central Tax (Rate) dated 16/01/2025	<ul style="list-style-type: none">To reduce the GST rate on Fortified Rice Kernel (FRK), classifiable under 1904, to 5%.
02/2025-Central Tax (Rate) dated 16/01/2025	<ul style="list-style-type: none">To exempt GST on gene therapy.
04/2025-Central Tax (Rate) dated 16/01/2025	<ul style="list-style-type: none">To increase the GST rate from 12% to 18 % on sale of all old and used vehicles, including electric vehicles (EVs) other than those specified at 18% -Sale of old and used petrol vehicles of engine capacity of 1,200 cc or more & of length of 4,000 mm or more; diesel vehicles of engine capacity of 1,500 cc or more & of length of 4,000 mm and SUVs.
05/2025-Central Tax (Rate) dated 16/01/2025	<ul style="list-style-type: none">To omit the definition of declared tariff used for determining GST rates on hotel accommodation and suitably amend the definition of specified premises to link it with actual value of supply of any unit of accommodation provided by the hotel.The GST rate on restaurant services in hotels will be determined based on the value of accommodation provided in the preceding financial year. Thus, GST rate will be 18% with ITC if the value of accommodation per unit exceeded Rs. 7,500 and 5% without ITC if the value of accommodation per unit was Rs. 7,500 or less.Hotels can opt to pay 18% GST with ITC on restaurant services by submitting a declaration before the start of the financial year or when obtaining registration.The above changes to be made effective from 01.04.2025 to avoid any transition difficulties.
06/2025-Central Tax (Rate) dated 16/01/2025	<ul style="list-style-type: none">To exempt GST on the contributions made by general insurance companies from the third-party motor vehicle premiums collected by them to the Motor Vehicle Accident Fund, constituted under section 164B of the Motor Vehicles Act, 1988. This fund is constituted for providing compensation/ cashless treatment to the victims of road accidents including hit and run cases.
07/2025-Central Tax (Rate) dated 16/01/2025	<ul style="list-style-type: none">To exclude taxpayers registered under composition levy scheme from the entry at Sr. No. 5AB introduced vide Notification No. 09/2024-CTR dated 08.10.2024 vide which renting of any commercial/ immovable property (other than residential dwelling) by unregistered person to registered person was brought under reverse charge mechanism.Sponsorship services provided by body corporates will be subject to GST under the Forward Charge Mechanism.

KEY TAKE AWAYS

- Suppliers must record the recipient's state on invoices for online services to unregistered recipients, ensuring the correct place of supply. Failure to comply may lead to penalties for incorrect invoicing.
- ECOs are not obligated to reverse ITC for supplies under Section 9(5) of the CGST Act. They must discharge the tax liability in full through the electronic cash ledger. However, ITC remains applicable for their own taxable services, ensuring clarity in tax treatment and compliance.
- The clarification resolves the issue by confirming that under EXW contracts, ITC can be claimed when the goods are handed over to the transporter, as the property in goods is considered transferred at that stage.
- CBIC provides much-needed clarity on the GST treatment of various voucher transactions, distinguishing between pre-paid instruments, actionable claims, and commission-based distributions. By addressing specific scenarios, it ensures compliance and reduces ambiguity, aiding businesses in properly accounting for GST and mitigating risks of non-compliance.
- The Supreme Court's distinction between 'reasons for arrest' and 'grounds of arrest' emphasizes transparency and protection of the accused's rights. The amended GST Investigation Instruction aligns with this ruling, ensuring that the grounds for arrest are clearly stated and documented in the Arrest Memo, enhancing legal accountability.



contain inadvertent errors for which we shall not be held responsible. The information given in this publication provides a bird's eye view on the recent important select developments and should not be relied solely for the purpose of economic or financial decision. Each such decision would call for specific reference of the relevant statutes and consultation of an expert. This document is a proprietary material created and compiled by C N K& Associates LLP. All rights reserved. This newsletter or any portion thereof may not be reproduced or sold in any manner whatsoever without the consent of the publisher.

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