

RVA INSIGHTS

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The CBIC has issued a few Notifications and Circulars to implement GST rate change, exemption and Reverse Charge Mechanism (RCM) related to Recommendations made by the GST Council in its 54th meeting held on 9 September 2024. These are summarized below.

Goods

- Two percent TDS applicable on business-to-business supply of metal scrap
- RCM to be introduced on metal scrap supplied by unregistered persons to registered persons, provided that the supplier will take registration when it crosses the threshold limit with effect from 10 October 2024. The press release to the 54th GST Council meeting specifically stated that the recipient under the RCM will pay tax even if the supplier is under the threshold.
- GST rate on cancer drugs—Trastuzumab Deruxtecan, Osimertinib and Durvalumab—reduced to 5% (from 12%) with effect from 10 October 2024
- It is clarified that the classification of two-wheeler seats to be under HSN 8714 and to attract 28% GST.
- It is clarified that the classification of car seats to be under HSN 9401 and it is proposed to increase the GST rate on car seats classifiable under HSN 9401 to 28% prospectively from 10 October 2024 from earlier applicable rate of 18%.

Services

- Renting of non-residential property by an unregistered person to a registered person to be brought under RCM to prevent revenue leakage
- Preferential location charges paid with consideration for construction services of residential, commercial or industrial complexes before the issuance of the completion certificate to be treated as composite supply and tax rate of main supply to be applicable (i.e. construction service)
- Exemption for the import of services by an establishment of a foreign airline company from a related person or any of its establishments outside India made without consideration is provided and also past demands/disputes for these to be regularised on an 'as is where is' basis.
- It is clarified that, GST on transport of passengers by helicopters on seat share basis at the rate of 5% and also past demands/disputes for these to be regularised on an 'as is where is' basis.
- It is clarified that, when a goods transport agency provides ancillary or intermediate services, such as loading, unloading, unpacking, transshipment and temporary warehousing, in the course of transporting goods by road and issues a fresh consignment note, these services are to be considered part of a composite supply. However, if these services are not provided during the transportation of goods and are invoiced separately, they are not to be treated as part of a composite supply of the transport of goods.
- DGCA-approved flying training courses conducted by flying training organisations are exempt from GST under Sl. No. 66 of Notification No. 12/2017-CT(R) as they qualify as recognised educational services.

- Exemption has been provided for the supply of research and development services by a government entity or research association, university, college, etc. using government or private grants.

Amendments to the CGST Act and Rules

- **Rules 89 (4A) and (4B), and 96(10) omitted-**

To alleviate the difficulties faced by exporters due to restrictions on refunds imposed by these rules. Specifically, exporters were required to maintain a one-to-one correlation between inputs or input services, and output supplies. This omission will offer great relief to exporters and expedite the refund procedure.

- **Section 128A of the CGST Act Notified and Rule 164 inserted under the CGST Rules**

- Section 128A of the CGST Act (effective from 1 November 2024) grants a waiver from interest and penalty for demands pertaining to the period from 1 July 2017 to 31 March 2020 under section 73 of the CGST Act. The waiver can be claimed by paying tax up to 31 March 2025
- Rule 164 is inserted under the CGST Rules, which provide for the procedure to apply for waiver under section 128A of the CGST Act. This rule outlines a structured procedure for applying for waivers, ensuring compliance with payment conditions, and providing clear timelines and processes for review, approval, or rejection of applications.

➤ **Rules 47A inserted**

A new rule 47A has been inserted in the CGST Rules to specify the time limit for issuing invoices by persons liable to pay tax under reverse charge. When a recipient is required to issue an invoice under section 31(3)(f) of the CGST Act and liable to pay tax under sections 9(3) or 9(4) of the CGST Act, the invoice will be issued within 30 days from the date of receipt of the supply.

➤ **Other Key Amendment**

In Part III of FORM GSTR-9 (Annual Return), (which provides the details of ITC availed during the financial year (FY)), under serial number 8 (for serial number A), has been substituted to provide the ITC details as per Form GSTR-2B

FOREIGN TRADE POLICY RELATED

- Directorate General of Foreign Trade has extended the Remission of Duties and Taxes on Export Products (RoDTEP) scheme (i) for export of products manufactured by Domestic Tariff Area (DTA) units till 30.09.2025; and (ii) for export of products manufactured by Advance Authorization holders (except deemed exports), Export Oriented Units (EOUs) and Special Economic Zone (SEZ) units till 31.12.2024. Revised RoDTEP rates have also been notified for implementation with effect from 10.10.2024.
- Directorate General of Foreign Trade has further extended the Interest Equalization Scheme (IES) for Pre and

Post Shipment Rupee Export Credit for MSME manufacturing exporters till 31.12.2024, with an additional condition that aggregate fiscal benefits for each MSME shall be restricted to INR 50 lakhs for FY 2024-25 (up to December 2024).

- Directorate General of Foreign Trade has clarified that import / re-import of "Exhibits and Samples" for or pursuant to demo, display, exhibition and participation in fairs in India or abroad shall not require an import authorization or registration under Import Monitoring System.

MCA amends IEPF (Accounting, Audit, Transfer and Refund) Rules, 2016:

MCA vide its notification dated September 09, 2024 has amended these rules to streamline the process for investors to claim lost or unclaimed securities and to protect the interests of investors and companies. It also provides clarity on the process for transferring securities to legal heirs. The rule now accepts legal heir certificates issued by revenue authorities and require additional documentation, such as indemnity bonds and no objection certificates from other legal heirs as the proof for transmission of securities. Further the companies are now required to obtain special contingency insurance coverage for risks associated with verification reports.

Amendments with respect to merger or amalgamation between foreign holding company and its wholly owned subsidiary in India:

MCA vide its amendment dated September 09, 2024 effective from September 17, 2024 has mandated that prior approval of RBI is required in case of merger or amalgamation between the transferor foreign company incorporated outside India being a holding company and the transferee wholly owned subsidiary incorporated in India. Additionally, the Indian transferee company must comply with Section 233 of the Companies Act, 2013, and submit an application to the Central Government along with a declaration under the same section. This amendment is made in order to streamline cross-border mergers, especially within multinational corporate groups, by making the process more transparent and efficient.

MCA amends Companies (Indian Accounting Standards) Rules, 2015:

MCA vide its notification dated September 09, 2024 has amended the Companies (Indian Accounting Standards) Rules, 2015 to streamline accounting processes and ensure compliance with the updated Ind AS requirements. These amendments have included the introduction of new provisions related to leaseback transactions under Indian Accounting Standard (Ind AS) 116. Also clarity has been provided how seller-lessees should apply the right-of-use asset and lease liabilities, ensuring that gains or losses related to retained rights are not recognized, except under specific circumstances.

Notification of “National Bank for Financing Infrastructure and Development” (NaBFID) as a “Public Financial Institution”

MCA vide its notification dated September 10, 2024 has notified that the Central Government in consultation with the RBI, has notified “National Bank for Financing Infrastructure and Development” as a “Public Financial Institution”, thereby amending the definition of “Public Financial Institution” under Section 2 of the Companies Act, 2013.

Clarification on holding AGM and EGM through Video Conference (VC) or Other Audio Visual Means (OAVM):

In continuation of the MCA’s earlier circulars, MCA vide its circular no 09/2024 on September 19, 2024 has further extended the timeline to hold AGM and EGM through VC or OAVM. This circular extends the option for the companies due to conduct AGMs in the year 2024 or 2025 to utilize VC or OAVM until September 30, 2025. However, it does not

extend the statutory deadlines for holding AGM's and the companies missing these deadlines may face legal consequences under the Companies Act, 2013. Further EGMs can be conducted through VC or OAVM until September 30, 2025.

Demat deadline extended for Producer Companies:

MCA in its earlier notification has mandated all private company, excluding small companies as of the FY ending on or after March 31, 2023, must dematerialise its securities within 18 months of the closure of FY. The present MCA amendment notification dated September 20, 2024 has provided an exception for the Producer Company adding a proviso to said Sub-rule granting them an extended deadline until March 31, 2028, to meet the compliance requirements.

Filing of E-Form CSR-2 for financial year 2023-2024:

MCA vide its notification dated September 24, 2024 has notified that Form CSR-2 for the Financial Year 2023-2024 shall be filed separately on or before December 31, 2024 after filing Form AOC-4 or AOC-4-NBFC (Ind AS) or AOC-4 XBRL as the case may be.

V3 Portal updates:

MCA has launched Form ADJ (Memorandum of Appeal) on MCA V3 Portal from 16th September, 2024. This form is used to file an appeal against an order passed by the Adjudicating Officer.

MCA sets special team to address the grievances related to MCA-21 portal:

MCA has set up a special team which will look into grievances of stakeholders and to provide better guidance to the stakeholders for their compliances on MCA-21 Portal. The “special team” will also provide better guidance to the stakeholders on this front and even suggest systemic solution, if required. The special team is intended to resolving issues of urgent nature.

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