

# ASC

## GST Times

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# INDEX

## ① Compliance Calender

## ② Council Meeting

- GST 52nd Council Meeting Recommendations

## ③ Notifications

- Notification no. 52/2023- Central Tax

## ④ Circular

- Circular No. 204/16/2023-GST
- Circular No. 203/15/2023-GST



## Message from Director

Dear Reader,

I would like to express my gratitude for taking out your valuable time to read our monthly newsletter "GST Times". We are particularly grateful to our regular reader for unwavering support to keep the knowledge-sharing initiative alive in the form of monthly newsletter, articles, knowledge videos, etc



GST is now the single largest indirect tax levied within India on the supply of goods and services which impacts every individual or business staying/operating in India. In such situation, it becomes essential to keep ourselves updated with all compliances and government notification related to GST.

Our objective of releasing this newsletter is imparting expert analysis and knowledge on all GST-related clarifications, circular, notifications, periodic updates, news, government policies, etc. We also combine the "Compliance Calendar" in this newsletter giving the due date on GST to make sure you file before the due dates.

We, as ASC, always believe in strengthening the relationship between our clients. We understand and value holistic growth through our expert consultancy services in the field of taxation, assurance, financial and legal dimensions.

I am hopeful that reading this newsletter would be rewarding to the readers. This small initiative shall go a long way in building our healthy relationships and create the platform to work together in near future. I would like to request my readers to kindly share your valuable comments & suggestions on this initiative for its further improvisation.

ASC Group, continues to leader for financial, legal, taxation, secretarial and business consulting firm for 27+ years, operation in 11 location globally with 1000+ functional clients. Our team of 300+ professionals consists of experienced Chartered Accountant, Companies Secretaries, Lawyers, Investment Advisory, and Management Consultant who continuously contribute towards the ease o doing business across the world.

I wish to close my note with the words "Content could be anything, but it should add value to the reader's life".

**Deepak Kumar Das**  
Director  
ASC Group

# Compliance Calender

Sno.	Due Date	Forms	Period	Description
1.	11 October 2023	GSTR-1	September 2023	GST filing of outward supply statement by a registered person with aggregate turnover exceeding INR 5 crores during the preceding financial year or any registered person have opted to file monthly return.
2.	11 October 2023	GSTR-1	September 2023	GST filing of outward supply statement by a registered person with aggregate turnover exceeding INR 5 crores during the preceding financial year or any registered person have opted to file monthly return.
3.	13 October 2023	GSTR-1 (IFF)	July – September 2023	Detailed of B2B Supply of a registered person with turnover up to INR 5 crores during the preceding year and who has opted for quarterly filing of return under QRMP
4.	20 October 2023	GSTR-3B	September 2023	GST filing of returns by a registered person aggregate turnover exceeding INR 5 crore during the preceding financial year.
5.	20 October 2023	GSTR-3B	September 2023	GST filing of returns by a registered person aggregate turnover up to INR 5 crore during the preceding financial year.
6.	22 October 2023	GSTR-3B	July – September 2023	GST filing of returns by a registered person of specified states aggregate turnover up to INR 5 crore during the preceding financial year.
7.	24 October 2023	GSTR-3B	July – September 2023	GST filing of returns by a registered person of specified states aggregate turnover up to INR 5 crore during the preceding financial year.
8.	13 October 2023	GSTR-5	September 2023	Summary of outward taxable supplies and tax payable by a Non-resident taxable person
9.	20 October 2023	GSTR-5A	September 2023	Summary of outward supplies and Tax payable by a person supplying ODIAR service
10.	13 October 2023	GSTR-6	September 2023	Details of Input Tax Credit (ITC) received and distributed by Input service Distributors (ISD)
11.	10 October 2023	GSTR-7	September 2023	Summary of Tax Deducted at source (TDS) and deposited under GST laws.
12.	10 October 2023	GSTR-8	September 2023	Summary of Tax Collected at source (TCS) and deposited by e-commerce operators under GST laws.
13.	28 October 2023	GSTR-11	September 2023	Statement of inward supplies received by persons having Unique Identification Number (UIN)
14.	18 October 2023	CMP-08	July – September 2023	Composition taxpayers who has opted for quarterly filing of return under QRMP



## GST 52nd Council Meeting Recommendations

Recently, the GST Council made several recommendations in their 52nd council meetings held on 07.10.2023 and changes aim at simplifying the tax structure by reducing rates, and providing relief to various sectors of economy. Let's delve into some of the key takeaways from these recommendations proposed by the GST council



### Changes in GST Rates for Goods

**Millets Flour:** One of the notable changes is the revised GST rates for millets flour falling under HSN 1901, with effect from date of notification. Products containing at least 70% millets by weight will now be taxed at 0% if sold in non-pre-packaged and non-labelled form, and at 5% if sold in pre-packaged and labelled form. This change aims to promote healthier dietary choices by making millet-based products more accessible and affordable.

**Imitation Zari Thread or Yarn:** For the textile and fashion industries, the GST Council clarified the taxation of imitation zari thread or yarn made from metallised polyester film/plastic film falling under HSN 5605. It is now categorized under the entry for imitation zari thread or yarn, attracting a 5% GST rate. Importantly, there will be no refund for polyester film (metallised)/plastic film due to inversion, providing clarity to businesses in this sector.

**Foreign-Going Vessels:** Foreign-going vessels are now liable to pay 5% Integrated Goods and Services Tax (IGST) on the value of the vessel if it converts to coastal run. However, there's a conditional IGST exemption for foreign-flag foreign-going vessels, provided they reconvert to foreign-going vessels within six months. This aims to boost coastal shipping and maritime trade.

**Extra Neutral Alcohol (ENA):** ENA used for the manufacture of alcoholic liquor for human consumption will be kept outside the ambit of GST. This change simplifies the tax treatment for ENA, which is a key ingredient in the alcoholic beverage industry.

**Molasses:** The GST rate on molasses has been significantly reduced from 28% to 5%. This move aims to increase liquidity for sugar mills and enable faster clearance of cane dues to sugarcane farmers. It also reduces the cost of manufacturing cattle feed, as molasses is a key ingredient.

**ENA for Industrial Use:** A separate tariff HS code has been created for ENA for industrial use, with an 18% GST rate. This helps classify and tax industrial use separately from other applications.

### **Changes in GST Rates for Services**

**Governmental Authority Services:** Pure and composite services provided to Central/State/UT governments and local authorities in relation to functions entrusted to Panchayat/Municipality remain exempt from GST. Additionally, services related to water supply, public health, sanitation conservancy, solid waste management, and slum improvement and upgradation supplied to Governmental Authorities are now also exempt from GST.

**Job Work Services:** Job work services for processing barley into malt are taxed at 5%, aligning with "job work in relation to food and food products," instead of the previous 18% rate.

**GST on Bus Transportation Services:** Liability to pay GST on bus transportation services supplied through Electronic Commerce Operators (ECOs) has been placed on the ECO. However, bus operators organized as companies may be excluded from this provision, allowing them to pay GST using their Input Tax Credit (ITC).

**District Mineral Foundations Trusts (DMFT):** DMFTs set up by State Governments are considered Governmental Authorities and eligible for the same GST exemptions as other Governmental Authorities.

**Indian Railways:** Supply of all goods and services by Indian Railways will be taxed under the Forward Charge Mechanism to enable them to avail ITC, ultimately reducing costs for Indian Railways.

### **Measures for Facilitation of Trade**

**Amnesty Scheme for Appeals:** An amnesty scheme has been recommended for filing appeals against demand orders under section 73 or 74 of the CGST Act, 2017. Taxpayers who couldn't file appeals within the specified time can now do so until 31st January 2024, subject to condition of payment of 12.5% of the tax as amount of pre-deposit under dispute, out of which at least 20% should be debited from Electronic Cash Ledger.

**Clarifications on Guarantees:** Clarifications have been provided regarding the taxability of personal guarantees offered by directors to banks and corporate guarantees provided for related persons, including value determination for corporate guarantees between related parties.

**Automatic Restoration of Attached Property:** Provision for automatic restoration of provisionally attached property after one year has been recommended, facilitating the release of such properties without the need for separate specific written orders.



**Place of Supply Clarifications:** Clarifications on various issues related to the Place of Supply have been recommended, providing clarity for businesses involved in transportation, advertising, and co-location services.

**Export of Services:** A circular will be issued to clarify the admissibility of export remittances received in Special INR Vostro accounts for the purpose of considering supply of services as exports.

**Supplies to SEZ Units/Developers:** Amendments have been recommended to allow suppliers to Special Economic Zone (SEZ) developers or units for authorized operations to make supplies on payment of integrated tax and claim a refund.

### Other Measures Pertaining to Law and Procedures

**Tribunal Reforms:** Provisions of the CGST Act, 2017 are aligned with the provisions of the Tribunal Reforms Act, 2021 regarding the appointment of President and Member of the proposed GST Appellate Tribunals.

**Input Service Distributor (ISD) Procedure:** Amendments have been proposed to make the ISD procedure mandatory for distribution of Input Tax Credit (ITC) for certain input services procured by Head Offices (HO) from third parties but attributable to both HO and Branch Offices (BO) or exclusively to one or more BOs.

## Notifications

### Notification No. 52/2023- Central Tax dt. 26/10/2023

The following notification shows amendment in the Central Goods and Services Tax Rules, 2023 (Fourth Amendment).

In the Central Goods and Services Tax Rules, 2017, **Rule 28** shall be renumbered as sub-rule (1) and after that sub-rule (2) shall be inserted namely

“(2) Notwithstanding anything contained in sub-rule (1), the value of supply of services by a supplier to a recipient who is a related person, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be one per cent of the amount of such guarantee offered, or the actual consideration, whichever is higher.”



In the **Rule 142**, sub-rule (3), the word “proper officer shall issue an order”, the words “proper officer shall issue an intimation” shall be substituted.

In the **Rule 159**, sub-rule (2), the word “commissioner to the effect”, the words “or on expiry of a periods of one year from the date of issuance of order under sub-rule (1), whichever is earlier”, shall be inserted.

In the said rules, FORM GST REG-01, in Part B, in serial number 2, after following clause shall be inserted, namely: -

“(xiva) One Person Company”

In the said rules, for FORM GST REG-08 is substituted with an updated form.

In FORM GST PCT-01 in PART-B the entries of serial no. 4 should be substituted with the following entries:

Enrolment sought	1) Chartered Accountant 2) Company Secretary (3) Cost and Management Accountant (4) Graduate or Postgraduate or its equivalent degree in Law (5) Graduate or Postgraduate or its equivalent degree in Commerce (6) Graduate or Postgraduate or its equivalent degree in Banking including Higher Auditing (7) Graduate or Postgraduate or its equivalent degree in Business Administration (8) Graduate or Postgraduate or its equivalent degree in Business Management (9) Degree examination of any Foreign University recognized by any Indian University (10) Retired Government Officials (11) Sales Tax practitioner under existing law for a period of not less than five years (12) Tax return preparer under existing law for a period of not less than five years (13) Any other examination notified by Government
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In FORM GST DRC-22 after the last paragraph, the following paragraph should be inserted as

“This order shall cease to have effect, on the date of issuance of order in FORM GST DRC-23 by the Commissioner, or on the expiry of a period of one year from the date of issuance of this order, whichever is earlier.”

## Circular-1

Circular No. 204/16/2023-GST dt. 27/10/2023

As per **Circular No. 204/16/2023-GST** which talks about Clarification on issues pertaining to taxability of personal guarantee and corporate guarantee in GST.

The clarification in regard to the same is as follows:

**Issue:** Whether the activity of providing personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not.



**Clarification:** The CGST Act treats directors and the company as related persons. The supply of goods or services between related parties, for business purposes, is considered taxable, even if provided without consideration. The value of such services is determined using Rule 28 of the CGST Rules, based on the open market value. The Reserve Bank of India (RBI) has issued guidelines on obtaining personal guarantees. These guidelines emphasize that personal guarantees should not be used as a source of income for the guarantors, and no consideration, such as commission or fees, should be paid to them. Based on these considerations, if no consideration is paid to the director for providing the personal guarantee, as mandated by the RBI, **the open market value of this service may be considered as zero, and thus, no tax is applicable.**

However, in exceptional cases where the director's guarantee is essential or where remuneration or consideration is paid to the guarantor, tax would be applicable based on the value of that consideration

**Issue:** Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services.

**Clarification:** In certain situations, when one company provides a corporate guarantee to a bank or financial institution on behalf of another related company, it is considered a service, even if there is no consideration involved in the same. The same principle applies when a parent company provides a guarantee for its subsidiary.

To ensure consistency and simplicity, **sub-rule (2)** has been introduced in **Rule 28** of the Central Goods and Services Tax Rules vide **Notification no. 52/2023- Central Tax**. This sub-rule outlines how the taxable value should be calculated for services involving corporate guarantees provided between related parties. Importantly, this rule will apply regardless of whether you can recover all the Input Tax Credit.

## Circular-2

**Circular No. 203/15/2023-GST dt. 27/10/2023**

In the following circular Clarification regarding determination of place of supply in the following cases:

- i. supply of service of transportation of goods, including through mail and courier;
- ii. supply of services in respect of advertising sector; and
- iii. supply of the “co-location services”.

**Issue no. 1:** whether the place of supply in case of service of transportation of goods, including through mail and courier, in cases where location of supplier of services or location of recipient of services is outside India, will be determined as per sub-section (2) of section 13 of IGST Act or will be determined as per sub-section (3) of section 13 of IGST Act.



**Clarification:** The following amendment will be effective from October 1, 2023, and the same talks about the changes to the determination of the place of supply for services related to the transportation of goods. In the following update the sub-section (9) of section 13 is omitted, which was previously used to determine the place of supply when the supplier or recipient was located outside India. Instead, the default rule under section 13(2) of the IGST Act will be applied now onwards. This default rule states that the place of supply will be the location of the recipient of services if their location is available. In cases where the location of the recipient is not available through ordinary business operations, the place of supply will be the location of the supplier. These changes also apply to services involving the transportation of goods by mail or courier.



**Issue no. 2:** (i) A case wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure. What will be the place of supply of services provided by the vendor to the advertising company in such case?

(ii) where the advertising company wants to display its advertisement on hoardings/ bill boards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/ bill boards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertising company at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure.

In this case, what will be the place of supply of such services provided by the vendor to the advertising company?

**Clarification:** (i) The hoardings or structures placed on land should be regarded as immovable fixtures due to their attachment to the ground, and it clarifies that the place of supply for services involving the sale of space on these immovable properties or the granting of rights to use them for advertising, as per Section 12(3)(a) of the IGST Act, is determined by the physical location of these hoardings or structure.

(ii) In this scenario, where the vendor is solely providing advertisement services to the advertising company and not involved in the sale of advertising space or granting rights to use the space on hoarding/structures, the services provided by the vendor are correctly categorized as pure advertisement services. Consequently, the place of supply for these services should be determined in accordance with Section 12(2) of the IGST Act. This section dictates that the place of supply for services not involving the sale of space or rights to use immovable property, but instead focusing on providing visibility to the advertising company's advertisements, will be determined based on the vendor's location or the location where the vendor is ordinarily engaged in providing such services, as per the specifics of the situation. Therefore, for these advertisement services, Section 12(2) of the IGST Act is the relevant provision for determining the place of supply.

**Issue no. 3:** The classification of co-location services for the purposes of determining the place of supply under the IGST (Integrated Goods and Services Tax) Act can be complex and may vary depending on the specific circumstances and the legal framework in your jurisdiction. The IGST Act is an Indian tax law that governs the integrated goods and services tax in India.

To address the questions raised:

(i) Whether supply of co-location services is considered as renting of immovable property service: In the context of co-location services, it does involve renting physical space within a data centre for the storage and operation of servers and related hardware. However, whether it qualifies as a "renting of immovable

property service" depends on the legal and regulatory framework in your jurisdiction. In some cases, renting of immovable property services may be taxed differently from other services. If it is considered renting of immovable property, then the place of supply would generally be determined based on the location of the immovable property (the data centre).

(ii) Whether the place of supply is determined by the default place of supply provision: The place of supply for services in India is typically determined as per the provisions of the IGST Act. In the case of co-location services, the default place of supply provision under sub-section (2) of Section 12 of the IGST Act may be applicable. This provision specifies the default place of supply as the location of the recipient of services. However, specific rules and regulations may apply, and it's essential to consult with a tax expert or legal advisor to determine the precise place of supply based on the relevant laws and regulations in your jurisdiction.

**Clarification:** Co-location services in India are categorized as "Hosting and Information Technology (IT) Infrastructure Provisioning services" rather than as the simple renting of immovable property. The classification is based on the comprehensive nature of co-location services, which include not only providing physical space for servers and network hardware but also various essential IT infrastructure services. The place of supply for these co-location services is determined by the default place of supply provision, based on the location of the recipient of the service.

However, if the agreement between the service provider and the recipient is limited to renting physical space and basic infrastructure without additional IT services and without the service provider's responsibility for the servers' upkeep, operation, and monitoring, then it is treated as the supply of renting immovable property. In such cases, the place of supply is determined by the location of the immovable property. These guidelines provide clarity on the tax treatment of co-location services under the IGST Act in India.



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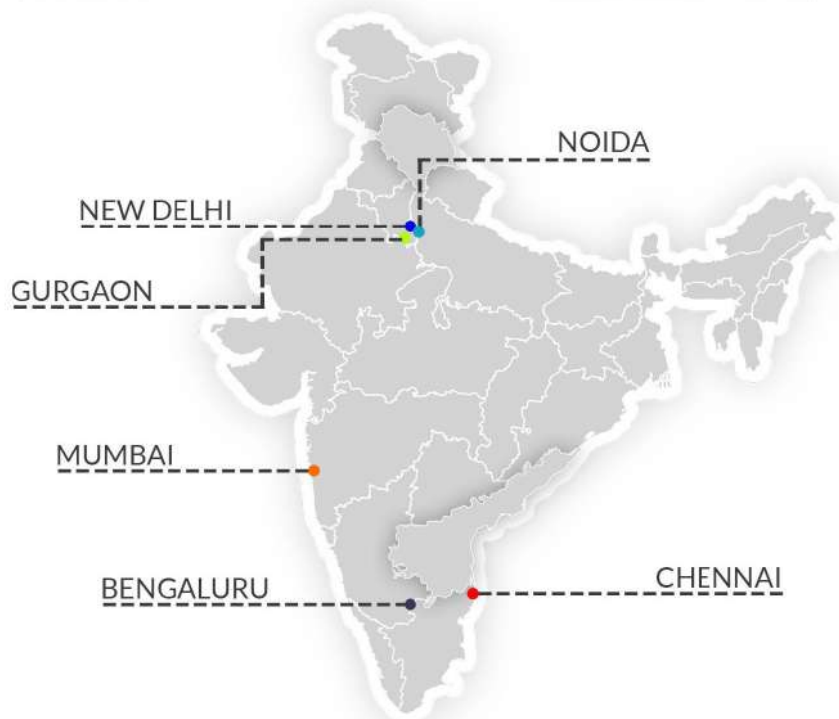
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