

CENTRAL GST CA. Rajiv Luthia, CA. Jinit Shah	
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CBIC vide Notification No. 17/2023 -CT dated 27th June, 2023 extended the due date of furnishing Form GSTR 3B for the month of May, 2023 till 30th June, 2023 for the registered person whose principal place of the business is in the districts of Kutch, Jamnagar, Morbi, Patan and Banaskantha in the state of Gujarat.

CBIC vide notification No. 18/2023-CT dated 17th July, 2023 has extended the due date for furnishing Form GSTR 1 for the month of April, May & June, 2023 till 31st July, 2023 for registered person whose principal place of business is in state of Manipur.

CBIC vide notification No. 19/2023-CT dated 17th July, 2023 has extended the due date for furnishing Form GSTR 3B for the month of April, May & June, 2023 till 31st July, 2023 for registered person whose principal place of business is in state of Manipur.

CBIC vide notification No. 20/2023-CT dated 17th July, 2023 has extended the due date for furnishing Form GSTR 3B for quarter ending June, 2023 till 31st July, 2023 for registered person whose principal place of business is in state of Manipur.

CBIC vide notification No. 21/2023-CT dated 17th July, 2023 has extended the due date for furnishing Form 7 (TDS return) for the month of April, May & June, 2023 till 31st July, 2023 for registered person whose principal place of business is in state of Manipur.

CBIC vide Notification No. 22/2023-CT dated 17th July, 2023 has extended the amnesty scheme till 31st August, 2023 thereby late fees payable u/s 47 which is in excess of Rs. 250/- (Rs. 500/- for CGST & SGST) for failure to furnish the return in FORM GSTR-4 (Quarterly return for registered person opting for composition levy) for period July, 2017 to March, 2022 is waived. In case, the return in FORM GSTR 4 is NIL, there will be no late fees applicable for said NIL return.

The above waivers are available only if the said GSTR-4 are filed between the period 1st April, 2023 to 31st August, 2023.

CBIC vide notification No. 23/2023-CT dated 17th July, 2023 has extended the due date till 31st August, 2023 for making application for revocation of cancellation of registration as provided in Notification 3/2023-CT dated 31st March ,2023.

CBIC vide notification No. 24/2023-CT dated 17th July, 2023 has extended the amnesty scheme till 31st August, 2023 for deemed withdrawal of assessment order issued under section 62 as provided in Notification 6/2023-CT dated 31st March, 2023.

CBIC vide notification No. 25/2023-CT dated 17th July, 2023 has extended the amnesty scheme till 31st August, 2023 for GSTR 9 (Annual return) non-filers as provided in notification 7/2023-CT dated 31st March, 2023

CBIC vide notification No. 26/2023-CT dated 17th July, 2023 has extended the amnesty scheme till 31st August, 2023 for GSTR 10 ((Final Return u/s 45) non-filers as provided in notification 8/2023-CT dated 31st March, 2023

CBIC vide Circular No. 192/04/2023-GST dated 17th July, 2023 provided following clarification on charging of interest under section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof.

- In case of IGST credit wrongly availed and utilized than there will be no interest liability u/s 50 (3) if the balance of input tax credit (ITC) in the electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC during the period starting from such availment and up to such reversal, even if available balance of IGST credit in electronic credit ledger individually falls below the amount of such wrongly availed IGST credit. The reasoning is that since the amount of ITC available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, is allowed to be utilised for payment of liability of IGST.
- Credit of compensation cess available in electronic credit ledger cannot be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest u/s 88B(3) of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit

CBIC vide Circular No. 193/05/2023-GST dated 17th July, 2023 has clarified that circular No. 183/15/2022-GST dated 27th Dec, 2022 shall also apply for period F.Y 2019-20 and 2020-21 subject to fulfilment of Rule 36(4) of CGST Rules, 2017 from date of insertion thereof i.e. w.e.f 9th October,2019.

It is further clarified that consequent to insertion of clause (aa) to sub-section (2) of section 16 of the CGST Act and amendment of rule 36(4) of CGST Rules w.e.f. 01.01.2022, no ITC shall be allowed for the period 01.01.2022 onwards in respect of a supply unless the same is reported by his suppliers in their FORM GSTR-1 or using IFF and is communicated to the said registered person in FORM GSTR-2B.

It is also clarified that guideline provided in Circular no. 183/15/2022-GST dated 27th Dec, 2022 shall apply only to the extent of limit provided under Rule 36(4) viz. 20%, 10% or 5% i.e. documentation would be required in respect of the 20% or 10% or 5% additional ITC taken.

These instructions will apply only to the ongoing proceedings in scrutiny/ audit/ investigation, etc. for the period 01.04.2019 to 31.12.2021 and not to the completed proceedings. However, these instructions will apply in those cases during the period 01.04.2019 to 31.12.2021 where any adjudication or appeal proceedings are still pending.

It has been further clarified that these guidelines are clarificatory in nature and may be applied as per the actual facts and circumstances of each case and shall not be used in the interpretation of the provisions of law.

CBIC vide circular No. 194/06/2023-GST dated 17th July, 2023 has issued clarification on TCS liability u/s 52 in case of Multiple E-commerce operation in one transaction. The Clarification are as follows:

Issue 1: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier in the said supply, who is liable for compliances under section 52 including collection of TCS?

Buyer	Buyer-side ECO	Supplier-side ECO	Supplier
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Clarification: In such a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier of the said goods or services, the compliances under U/s 52, including collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.

e.g.: Buyer-side ECO collects payment from the buyer, deducts its fees/commissions and remits the balance to Seller-side ECO. Here, the Seller-side ECO will release the payment to the supplier after deduction of his fees/commissions and therefore will also be required to collect TCS, as applicable and pay the same to the Government in accordance with section 52 and also make other compliances under Section 52

In this case, the Buyer-side ECO will neither be required to collect TCS nor will be required to make other compliances in accordance with section 52 of CGST Act with respect to this particular supply.

Issue 2: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the Supplier-side ECO is himself the supplier of the said supply, who is liable for compliances under section 52 including collection of TCS?

Buyer	Buyer-side ECO	Supplier (also an ECO)
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Clarification: In such a situation, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it.

e.g. Buyer-side ECO collects payment from the buyer, deducts its fees and remits the balance to the supplier (who is itself an ECO as per the definition in Sec 2(45) of the CGST Act). In this scenario, the Buyer-side ECO will also be required to collect TCS, as applicable, pay the same to the Government in accordance with section 52 of CGST Act and also make other compliances under section 52 of CGST Act.

CBIC vide circular No. 195/07/2023-GST dated 17th July, 2023 has issued clarification on availability of ITC in respect of warranty replacement of parts and repairs services during the warranty period. The Clarification are as follows:

Issue 1: There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services.

Whether GST would be payable on such replacement of parts or supply of repair services, without any consideration from the customer, as part of warranty?

Clarification: The value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and / or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods.

As such, where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, no further GST is chargeable on such replacement of parts and/ or repair service during warranty period. However, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.

Issue 2: Whether in such cases, the manufacturer is required to reverse the input tax credit in respect of such replacement of parts or supply of repair services as part of warranty, in respect of which no additional consideration is charged from the customer?

Clarification: In such cases, the value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and/ or repair services to be incurred during the warranty period.

Therefore, these supplies cannot be considered as exempt supply and accordingly, the manufacturer, who provides replacement of parts and/ or repair services to the customer during the warranty period, is not required to reverse the input tax credit in respect of the said replacement parts or on the repair services provided.

Issue 3: Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?

Clarification: There may be instances where a distributor of a company provides replacement of parts and/ or repair services to the customer as part of warranty on behalf of the manufacturer and no separate consideration is charged by such distributor in respect of the said replacement and/ or repair services from the customer.

In such cases, as no consideration is being charged by the distributor from the customer, no GST would be payable by the distributor on the said activity of providing replacement of parts and/ or repair services to the customer.

However, if any additional consideration is charged by the distributor from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.

Issue 4: In the above scenario where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer and whether the distributor would be required to reverse the input tax credit in respect of such replacement of parts?

Clarification: (a) There may be cases where the distributor replaces the part(s) to the customer under warranty either by using his stock or by purchasing from a third party and charges the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice, for the said supply made by him to the manufacturer. In such a case, GST would be payable by the distributor on the said supply by him to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of CGST Act. In such case, no reversal of input tax credit by the distributor is required in respect of the same.

(b) There may be cases where the distributor raises a requisition to the manufacturer for the part(s) to be replaced by him under warranty and the manufacturer then provides the said part(s) to the distributor for the purpose of such replacement to the customer as part of warranty.

In such a case, where the manufacturer is providing such part(s) to the distributor for replacement to the customer during the warranty period, without separately charging any consideration at the time of such replacement, no GST is payable on such replacement of parts by the manufacturer. Further, no reversal of ITC is required to be made by the manufacturer in respect of the parts so replaced by the distributor under warranty.

(c) There may be cases where the distributor replaces the part(s) to the customer under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced subject to provisions of sub-section (2) of section 34 of the CGST Act. Accordingly, the tax liability may be adjusted by the manufacturer, subject to the condition that the said distributor has reversed the ITC availed against the parts so replaced.

Issue 5 : Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?

Clarification: In such scenario, there is a supply of service by the distributor and the manufacturer is the recipient of such supply of repair services in accordance with the provisions of sub-clause (a) of clause (93) to section 2 of the CGST Act, 2017.

Hence, GST would be payable on such provision of service by the distributor to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of CGST Act.

Issue 6: Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?

Clarification: (a) If a customer enters in to an agreement of extended warranty with the manufacturer at the time of original supply, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly.

(b) However, in case where a consumer enters into an agreement of extended warranty at any time after the original supply, then the same is a separate contract and GST would be payable by the service provider, whether manufacturer or the distributor or any third party, depending on the nature of the contract (i.e. whether the extended warranty is only for goods or for services or for composite supply involving goods and services)

CBIC vide circular No. 196/08/2023-GST dated 17th July, 2023 has issued clarification on taxability of shares held in subsidiary company by the holding company. The clarification is as follows:

Issue : Whether the activity of holding shares by a holding company of the subsidiary company will be treated as a supply of service or not and whether the same will attract GST or not.

Clarification: Securities are considered neither goods nor services in terms of definition of goods under clause (52) of section 2 of CGST Act and the definition of services under clause (102) of the said section. Further, securities include 'shares' as per definition of securities under clause (h) of section 2 of Securities Contracts (Regulation) Act, 1956.

This implies that the securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services. For a transaction/activity to be treated as supply of services, there must be a supply as defined under section 7 of CGST Act. It cannot be said that a service is being provided by the holding company to the subsidiary company, solely on the basis that there is a SAC entry '997171' in the scheme of classification of services mentioning; "the services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest.", unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7 of CGST Act.

Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

CBIC vide circular No. 197/09/2023-GST dated 17th July, 2023 has issued clarification on refund related issue. The clarification are as follows:

Issue : Doubts are being raised as to whether the refund of the accumulated input tax credit under section 54(3) of CGST Act shall be admissible on the basis of the input tax credit as reflected in FORM GSTR-2A or on the basis of that available as per FORM GSTR-2B of the applicant.

Clarification: The matter has been examined and it has been decided that since avilment of input tax credit has been linked with FORM GSTR-2B w.e.f. 01.01.2022, availability of refund of the accumulated input tax credit under section 54(3) of CGST Act for a tax period shall be restricted to input tax credit as per those invoices, the details of which are reflected in FORM GSTR-2B of the applicant for the said tax period or for any of the previous tax periods and on which the input tax credit is available to the applicant. Accordingly, para 36 of Circular No. 125/44/2019-GST dated 18.11.2019, which was earlier modified vide Para 5 of Circular No. 135/05/2020-GST dated 31.03.2020, stands

modified to this extent. Consequently, Circular No. 139/09/2020-GST dated 10.06.2020, which provides for restriction on refund of accumulated input tax credit on those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant, also stands modified accordingly.

It is further clarified that as the said amendments in section 16(2) (aa) of CGST Act and Rule 36(4) of CGST Rules have been brought into effect from 01.01.2022, therefore, the said restriction on availability of refund of accumulated input tax credit for a tax period on the basis of the credit available as per FORM GSTR-2B for the said tax period or for any of the previous tax periods, shall be applicable for the refund claims for the tax period of January 2022 onwards. However, in cases where refund claims for a tax period from January 2022 onwards has already been disposed of by the proper officer before the issuance of this circular, in accordance with the extant guidelines in force, the same shall not be reopened because of the clarification being issued by this circular.

Issue : Requirement of the undertaking in FORM RFD 01 inserted vide Circular No. 125/44/2019-GST dated 18.11.2019.

Clarification: Circular 125/44/2019-GST dated 18.11.2019 provided for various undertaking to be submitted alongwith FORM RFD 01 and also undertaking in said FORM RFD 01.

However, since Section 42 of CGST Act has been omitted w.e.f. 1st October, 2022 vide Notification No. 18/2022-CT dated 28.09.2022. Further, an amendment has also been made in Section 41 of the CGST Act, wherein the concept of provisionally accepted input tax credit has been done away with. Besides, FORM GSTR-2 and FORM GSTR-3 have also been omitted from CGST Rules. In view of this, reference to section 42, FORM GSTR-2 and FORM GSTR-3 is being deleted from the said para in the Circular as well as from the said undertaking.

Thus, the relevant undertaking submitted alongwith FORM RFD 01, the undertaking in FORM RFD 01 and consequently undertakings forming part of Annexure A of the said Circular also stands amended.

Issue : Doubts have been raised as regarding calculation of "adjusted total turnover" under sub-rule (4) of rule 89 of CGST Rules, in view of insertion of Explanation in sub-rule (4) of rule 89 of CGST Rules vide Notification No. 14/2022-Central Tax dated 05.07.2022. Clarification is being sought as to whether value of goods exported out of India has to be considered as per Explanation under sub-rule (4) of rule 89 of CGST Rules for the purpose of calculation of "adjusted total turnover" in the formula under the said sub-rule.

Clarification : In this regard, it is mentioned that consequent to amendment in definition of the "Turnover of zero-rated supply of goods" vide Notification No. 16/2020-Central Tax dated 23.03.2020, Circular 147/03/2021-GST dated 12.03.2021 was issued which inter alia clarified that the same value of zero-rated/ export supply of goods, as calculated as per amended definition of "Turnover of zero-rated supply of goods", needs to be taken into consideration while calculating "turnover in a state or a union territory", and accordingly, in "adjusted total turnover" for the purpose of sub-rule (4) of Rule 89.

On similar lines, it is clarified that consequent to Explanation having been inserted in sub-rule (4) of rule 89 of CGST Rules vide Notification No. 14/2022- CT dated 05.07.2022, the value of goods exported out of India to be included while calculating "adjusted total turnover" will be same as being determined as per the Explanation inserted in the said sub-rule.

Issue : Clarification in respect of admissibility of refund where an exporter applies for refund subsequent to compliance of the provisions of sub-rule (1) of rule 96A:

References have been received citing the instances where exporters have voluntarily made payment of due integrated tax, along with applicable interest, in cases where goods could not be exported or payment for export of services could not be received within time frame as prescribed in clause (a) or (b), as the case may be, of sub-rule (1) of rule 96A of CGST Rules. Clarification is being sought as to whether subsequent to export of the said goods or as the case may be, realization of payment in case of export of services, the said exporters are entitled to claim not only refund of unutilized input tax credit on account of export but also refund of the integrated tax and interest so paid in compliance of the provisions of sub-rule (1) of rule 96A of CGST Rules.

Clarification : As long as goods are actually exported or as the case may be, payment is realized in case of export of services, even if it is beyond the time frames as prescribed in sub-rule (1) of rule 96A, the benefit of zero-rated supplies cannot be denied to the concerned exporters. Accordingly, it is clarified that in such cases, on actual export of the goods or as the case may be, on realization of payment in case of export of services, the said exporters would be entitled to refund of unutilized input tax credit in terms of sub-section (3) of section 54 of the CGST Act, if otherwise admissible.

It is also clarified that in such cases subsequent to export of the goods or realization of payment in case of export of services, as the case may be, the said exporters would be entitled to claim refund of the integrated tax so paid earlier on account of goods not being exported, or as the case be, the payment not being realized for export of services, within the time frame prescribed in clause (a) or (b), as the case

may be, of sub-rule (1) of rule 96A. It is further being clarified that no refund of the interest paid in compliance of sub-rule (1) of rule 96A shall be admissible.

It may further be noted that the refund application in the said scenario may be made under the category "Excess payment of tax". However, till the time the refund application cannot be filed under the category "Excess payment of tax" due to non-availability of the facility on the portal to file refund of IGST paid in compliance with the provisions of sub-rule (1) of rule 96A of CGST Rules as "Excess payment of tax", the applicant may file the refund application under the category "Any Other" on the portal.

CBIC vide Circular No. 198/10/2023-GST dated 17th July, 2023 has issued Clarification on various issue pertaining to e-invoice which are as follows:

Issue: Whether e-invoicing is applicable for supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/Government agencies/ local authorities/ PSUs which are registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act?

Clarification: Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct tax at source as per provisions of section 51 of the CGST/SGST Act, are liable for compulsory registration in accordance with section 24(vi) of the CGST Act. Therefore, Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act, are to be treated as registered persons under the GST law as per provisions of clause (94) of section 2 of CGST Act. Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc under rule 48(4) of CGST Rules.

CBEC vide circular no. 199/11/2023 dated 17th July,2023 provides clarification on taxability of services provided by an office of an organization in one state to the other office of the organization in another state, both being distinct person:

Eg.: If HO located in 1 state and Branch in other state .The Ho procure security services for entire organization from the security agency(Third Party).HO Also provides some other services on their own to branch(Internally generated services).

Issue 1: Whether HO can avail the input tax credit in respect of common input services procured from a third party but attributable to both HO and Branch office(BO) or exclusively to one or more BOs, issue tax invoices under section 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow the Input Service Distributor (hereinafter referred to as 'ISD') mechanism for distribution of ITC in respect of common input services procured by them from a third party but attributable to both HO and BOs or exclusively to one or more BOs?

Clarification: It is clarified that in respect of common input services procured by the HO from a third party but attributable to both HO and BOs or exclusively to one or more BOs, HO has an option to distribute ITC in respect of such common input services by following ISD mechanism laid down in Section 20 of CGST Act read with rule 39 of the Central Goods and Services Tax Rules, 2017. However, as per the present provisions of the CGST Act and CGST Rules, it is not mandatory for the HO to distribute such input tax credit by ISD mechanism. HO can also issue tax invoices under section 31 of CGST Act to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs and the BOs can then avail ITC on the same subject to the provisions of section 16 and 17 of CGST Act.

In case, the HO distributes or wishes to distribute ITC to BOs in respect of such common input services through the ISD mechanism as per the provisions of section 20 of CGST Act read with rule 39 of the CGST Rules, HO is required to get itself registered mandatorily as an ISD in accordance with Section 24(viii) of the CGST Act.

Further, such distribution of the ITC in respect a common input services procured from a third party can be made by the HO to a BO through ISD mechanism only if the said input services are attributable to the said BO or have actually been provided to the said BO. Similarly, the HO can issue tax invoices under section 31 of CGST Act to the concerned BOs, in respect of any input services, procured by HO from a third party for on or behalf of a BO, only if the said services have actually been provided to the concerned BOs.

Issue 2: In respect of internally generated services, there may be cases where HO is providing certain services to the BOs for which full input tax credit is available to the concerned BOs. However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs. Whether the HO is mandatorily required to issue invoice to BOs under section 31 of CGST Act for such internally generated services, and/ or whether the cost of all components including salary

cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs when full input tax credit is available to the concerned BOs.

Clarification: The value of supply of services made by a registered person to a distinct person needs to be determined as per rule 28 of CGST Rules, read with section 15(4) of CGST Act. As per clause (a) of rule 28, the value of supply of goods or services or both between distinct persons shall be the open market value of such supply. The second proviso to rule 28 of CGST Rules provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Accordingly, in respect of supply of services by HO to BOs, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, if the recipient BO is eligible for full input tax credit.

Accordingly, in cases where full input tax credit is available to a BO, the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice.

Further, in such cases where full input tax credit is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules.

Issue 3: In respect of internally generated services provided by the HO to BOs, in cases where full input tax credit is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs.

Clarification: In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases where full input tax credit is not available to the concerned BO.