

A person in a white shirt is working at a desk. Their left hand is pointing at a document with a bar chart, and their right hand is holding a pen. A calculator is visible in the foreground.

**GST - Summary of various circulars issued on 27.12.2022**

**Article No. JS06/2022-2023 dated 31.12.2022**



# GST - Summary of various circulars issued on 27.12.2022

Subject Matter	Significant Points			
Circular No. 183/15/2022-GST dated 27.12.2022				
Clarification of ITC availed in GSTR-3B v/s available in GSTR-2A for F.Y. 2017 -18 & F.Y. 2018 -19				
Purpose	To provide guideline to officers & taxpayers when ITC is not reflecting in GSTR-2A			
Applicability	<ul style="list-style-type: none"><li>○ Applicable only to on-going proceedings in scrutiny/ audit/ investigation etc.</li><li>○ Also, applicable where any adjudication or appeal proceedings are still pending</li><li>○ Not applicable to completed proceedings</li></ul> (No refund is eligible when ITC already reversed or paid)			
Situations Covered in circular	Sr. No.	GSTR-1 filed by supplier?	GSTR-3B filed by supplier?	Reason for not reflecting ITC in GSTR-2A
	1	No	Yes	Due to non-filing of GSTR-1 by supplier
	2	Yes	Yes	Supplier failed to report particular supply in GSTR-1
	3	Yes	Yes	B2B supply erroneously reported as B2C supply
	4	Yes	Yes	Wrong GSTIN mentioned in GSTR-1 by supplier
Procedure to be followed by officer	No.	Proper officer shall ascertain fulfillment of following conditions:		
	1	Recipient is in possession of tax invoice or debit note		
	2	Recipient has received the goods or services		
	3	Recipient has made payment to supplier		
	4	Where difference between 3B and 2A in respect of a <u>supplier</u> for said F.Y.	is up to Rs. 5 Lakhs	<b>Condition:</b> Supplier shall certify (self-declaration) that <ul style="list-style-type: none"><li>○ Supplies have actually been made &amp;</li><li>○ Tax has been paid in GSTR-3B by him</li></ul>
			exceeds Rs. 5 Lakhs	<b>Condition:</b> CA/CMA shall certify that <ul style="list-style-type: none"><li>○ Supplies have actually been made &amp;</li><li>○ Tax has been paid in GSTR-3B by supplier</li></ul>
Additional condition	No.	Particulars		
	1	Above conditions are to be followed in all four situations mentioned in the circular		
	2	Only for 4 <sup>th</sup> situation when wrong GSTIN has been mentioned by supplier, one additional step to be followed by officer that:  He shall intimate jurisdictional tax authority of registered person whose GSTIN has been wrongly mentioned to check whether such recipient has disallowed the credit or not		
	3	However, allowance of ITC to actual recipient shall not depend on completion of action by tax authority		



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<b>Exception</b>	For F.Y. 2017 -18 when ITC availed in GSTR-3B, filed between 21.10.2018 to 20.04.2019 then above-mentioned relaxation is not available to recipient i.e., such ITC needs to be available in GSTR-2A
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### Circular No. 184/16/2022-GST dated 27.12.2022

#### Place of supply of services for transportation of goods outside India & eligibility of ITC

Situations clarified	No.	Issue	Clarification
	1	<u>Location of supplier:</u> In India (Mr. Z -Air cargo operator from West Bengal)  <u>Location of Recipient:</u> In India (Mr. X from West Bengal)  <u>Nature of Service:</u> Transportation of goods, including by mail or courier, where the transportation of goods to a place outside India (To Singapore)	<u>Place of supply</u> = Place of destination of such goods i.e. Singapore [Proviso to sec: 12(8) of IGST Act, 2017]
	2	Whether above services will be inter-state supply or intra-state supply?	<u>Nature of supply</u> = Inter-state supply [Section 7(5) of IGST Act, 2017] [Mr. Z will charge IGST from Mr. X]
	3	Will Mr. X be eligible to claim ITC?	Yes
	4	Which state code is to be mentioned by Mr. Z in GSTR-1?	Code – 96 – Foreign Country

### Circular No. 185/17/2022-GST dated 27.12.2022

**Time limit within which officer is required to re-determine amount of tax in case of conversion of notice from section 74(1) to section 73(1) i.e., conversion from fraud or suppression to normal case**

Situations clarified	No.	Issue	Clarification
	1	○ Show cause notice issued = U/s 74(1) ○ Appellate authority, Tribunal or court concludes = Notice not sustainable u/s 74(1) and deemed to be issued u/s 73(1) ○ What is time limit to re-determine tax, interest etc.?	○ Notice is deemed to have been issued u/s 73(1) ○ Order is to be issued within a period of two years from date of communication of direction from appellate authority, Tribunal or court [Section 75(3)]

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### Circular No. 185/17/2022-GST dated 27.12.2022

**Time limit within which officer is required to re-determine amount of tax in case of conversion of notice from section 74(1) to section 73(1) i.e., conversion from fraud or suppression to normal case**

Situations clarified	No.	Issue	Clarification
	2	How to re-compute amount payable by noticee in above case?	<ul style="list-style-type: none"> <li>○ Re-determination of amount payable to be done as per 73(2), r.w. 73(10)</li> <li>○ SCN to be issued within 2 years &amp; 9 months from due date of furnishing annual return</li> <li>○ Order to be passed within 3 years from due date of furnishing annual return</li> <li>○ If any demand is beyond above-mentioned time limit then such demand is to be considered as barred by time limitation.</li> </ul>

### Circular No. 186/18/2022-GST dated 27.12.2022

**Taxability of "no claim bonus" offered by insurance companies & applicability of E- invoicing**

Situations clarified	No.	Issue	Clarifications
	“No claim bonus”		
	1	“No claim bonus” deducted from gross insurance premium can be considered as supply?	No, it cannot be considered as supply
	2	Whether above No Claim Bonus, considered as an admissible <b>discount</b> u/s 15?	<ul style="list-style-type: none"><li>○ Yes admissible</li><li>○ GST will be leviable after deducting No claim Bonus. [Section 15(3)(a)]</li></ul>
	“E-Invoicing”		
3	Certain entities/sectors have been exempted from e-invoicing provisions. Such exemption is extended to only primary supplies or also to incidental and other supplies?	<ul style="list-style-type: none"><li>○ Exemption from E-invoice is in terms of entity as whole and is not restricted by nature of supply.</li><li>○ E.g. Bank (Exempt Entity) may supply Bullion without E-Invoicing</li></ul>	



# GST - Summary of various circulars issued on 27.12.2022

## Circular 187/19/2022-GST dated 27.12.2022

### Recovery & treatment of statutory dues w.r.t. Insolvency Proceedings

Situations clarified	No.	Issue	Clarification
	1	Government dues reduced as a result of any appeal, revision or other proceedings	<ul style="list-style-type: none"> <li>Intimation for such reduction to be given by Commissioner to such person &amp; appropriate authority with whom recovery proceedings are pending</li> <li>Recovery proceedings of such reduced amount can be continued</li> </ul>
	2	Other proceedings covers	Proceedings conducted by NCLT under IBC (Insolvency & Bankruptcy)
	3	Form for such intimation	<ul style="list-style-type: none"> <li>Where a confirmed demand for recovery has been issued by the tax authorities in FORM GST DRC-07/DRC 07A; &amp;</li> <li>Where the proceedings have been finalized under IBC reducing the amount of statutory dues payable to the government under CGST Act or under existing law</li> <li>Commissioner shall issue intimation in Form GST DRC-25</li> </ul>

## Circular 188/20/2022-GST dated 27.12.2022

### Application of refund by Unregistered Person

<b>Applicability</b>	An unregistered person who has suffered the burden of GST but the contract has been cancelled later and the supplier repays the amount after deducting GST as supplier is bound by the statutory time limit to issue Credit note with GST		
<b>Example</b>	<ol style="list-style-type: none"> <li>Cancellation of booking by customer with builder or</li> <li>Long term insurance policy where premium for entire period paid upfront</li> </ol>		
Situations Clarified	No.	Issue	Clarification
	1	Methodology	<ul style="list-style-type: none"> <li>Obtain temporary registration number</li> <li>Apply in Form GST RFD-01 under category of 'refund for unregistered person' along with requisite documents</li> </ul>
	2	In case of more than 1 applications	<ul style="list-style-type: none"> <li>Separate Applications for different suppliers</li> <li>If different suppliers registered in different states than applicant shall obtain temporary registration in such different states</li> </ul>

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Situations Clarified	No.	Issue	Clarification
	3	Due date for filing refund	Within 2 years from relevant date
	4	Relevant date	Date of letter of cancellation of contract / agreement issued by the supplier
	5	Refund amount	Refund amount should not be less than Rs. 1000



# THANK YOU

Compiled & Summarised by

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