

S.No.	Issue	Clarification
		for the other financial years, then the amount payable in terms of section 73 shall be re-determined only in respect of that financial year for which show cause notice was issued before the expiry of the time period as specified in sub-section (2) of section 73.

## 186

### Clarification on various issue pertaining to GST-reg.

**Circular No. 186/18/2022-GST**

**27th December, 2022**

Representations have been received from the field formations seeking clarification on certain issues with respect to –

- i. taxability of No Claim Bonus offered by Insurance companies;
- ii. applicability of e-invoicing w.r.t an entity.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

S. No.	Issue	Clarification
<b>Taxability of No Claim Bonus offered by Insurance companies</b>		
1.	Whether the deduction on account of No Claim Bonus allowed by the insurance company from the insurance premium payable by the insured, can be considered as consideration for the supply provided by the insured to the insurance company, for agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s)?	<p>As per practice prevailing in the insurance sector, the insurance companies deduct No Claim Bonus from the gross insurance premium amount, when no claim is made by the insured person during the previous insurance period(s). The customer/insured procures insurance policy to indemnify himself from any loss/ injury as per the terms of the policy, and is not under any contractual obligation not to claim insurance claim during any period covered under the policy, in lieu of No Claim Bonus.</p> <p>It is, therefore, <b>clarified</b> that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and No Claim Bonus cannot be considered as a consideration for any supply provided by the insured to the insurance company.</p>



S. No.	Issue	Clarification
2.	Whether No Claim Bonus provided by the insurance company to the insured can be considered as an admissible discount for the purpose of determination of value of supply of insurance service provided by the insurance company to the insured?	<p>As per clause (a) of sub-section (3) of section 15 of the CGST Act, value of supply shall not include any discount which is given before or at the time of supply if such discount has been duly recorded in the invoice issued in respect of such supply.</p> <p>The insurance companies make the disclosure of the fact of availability of discount in form of No Claim Bonus, subject to certain conditions, to the insured in the insurance policy document itself and also provide the details of the no claim Bonus in the invoices also. The pre-disclosure of NCB amount in the policy documents and specific mention of the discount in form of No Claim Bonus in the invoice is in consonance with the conditions laid down for deduction of discount from the value of supply under clause (a) of sub-section (3) of section 15 of the CGST Act.</p> <p>It is, therefore, <b>clarified</b> that No Claim Bonus (NCB) is a permissible deduction under clause (a) of sub-section (3) of section 15 of the CGST Act for the purpose of calculation of value of supply of the insurance services provided by the insurance company to the insured. Accordingly, where the deduction on account of No claim bonus is provided in the invoice issued by the insurer to the insured, GST shall be leviable on actual insurance premium amount, payable by the policy holders to the insurer, after deduction of No Claim Bonus mentioned on the invoice.</p>
<b>Clarification on applicability of e-invoicing w.r.t an entity</b>		
3.	Whether the exemption from mandatory generation of e-invoices in terms of Notification <b>No. 13/2020-Central Tax</b> , dated 21st March, 2020, as amended, is available for the entity as whole, or whether the same is available only in respect of certain supplies made by the said entity?	In terms of Notification <b>No. 13/2020-Central Tax</b> dated 21st March, 2020, as amended, certain entities/sectors have been exempted from mandatory generation of e-invoices as per sub-rule (4) of rule 48 of Central Goods and Services Tax Rules, 2017. It is hereby <b>clarified</b> that the said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.



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		<b>Illustration:</b> A Banking Company providing banking services, may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice in terms of Notification <b>No. 13/2020-Central Tax</b> , dated 21st March, 2020, as amended, for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.

## 187

### Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016- reg.

**Circular No. 187/19/2022-GST**

**27th December, 2022**

Attention is invited to Circular No.134/04/2020-GST dated 23rd March, 2020, wherein it was **clarified** that no coercive action can be taken against the corporate debtor with respect to the dues of the period prior to the commencement of Corporate Insolvency Resolution Process (CIRP). Such dues will be treated as 'operational debt' and the claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC.

2. Representations have been received from the trade as well as tax authorities, seeking clarification regarding the modalities for implementation of the order of the adjudicating authority under Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "IBC") with respect to demand for recovery against such corporate debtor under Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") as well under the existing laws and the treatment of such statutory dues under CGST Act and existing laws, after finalization of the proceedings under IBC.

3. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, hereby clarifies as follows.

4.1 Section 84 of CGST Act reads as follows:

*"Section 84 - Continuation and validation of certain recovery proceedings.-*

*Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereafter in this section referred to as "Government dues"), is served upon any taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues, then-*

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