

## Extension of due dates & Time Limits in GST

### Snapshot

After a gap of 7 months, a meeting of the GST council was held on 28 May 2021. The council focused on granting relaxations to the trade and industry suffering from the perils of the second wave of COVID-19 and the lockdown imposed by many states, leading to severe disruptions to the business activities.

Interestingly, multiple notifications were also issued in less than a week's time to give effect to most of the recommendations of the GST council which include waiver of late fees on delayed filing of returns, waiver and reduction of interest on late payment of GST, etc. Certain amendments to various notifications under the GST law such as implementation of self-certified annual reconciliation statement, clarifying availability of ITC to landowners in case of area sharing construction model, shifting place of supply in certain cases etc., have also been made in order to streamline the GST law.

### Background

In the wake of the second wave of COVID -19 and the lockdown imposed by many states, the GST Council held its 43rd meeting on 28 May 2021. The council proposed various measures for providing relief to the trade and industry including waiver of late fees on delayed filing of returns, waiver and reduction of interest on late payment of GST, etc. Certain amendments to various notifications were also proposed in order to streamline the GST law. Various notifications were subsequently issued by the CBIC within few days of the Council's to give effect of most of its recommendations.

### Amnesty Scheme for filing of pending returns under GST

*Notification No. 19/2021 Central Tax – Dated June 01, 2021*

An opportunity has been provided to the taxpayers to furnish the pending GSTR-3B for the past period right from introduction of GST i.e., July 2017 till April 2021. If the GSTR -3B is filed between 01 June to 31 August 2021, then the late fee shall apply as follows:

Tax liability	Late Fee applicable
Nil Tax Liability	Maximum of Rs. 500/- per return (Rs. 250/- each for CGST & SGST)
Other cases	Maximum of Rs. 1000/- per return (Rs. 500/- each for CGST & SGST)

It is to be noted that the above notification provides only relaxation from payment of late fee. Liability to pay interest shall continue at applicable rates.

### Revised structure of Late Fees from June 2021 onwards

Notification No. 19, 20, 21 and 22 /2021 Central Tax - Dated June 01,2021

The cap on the late fee payable for delay in filing various returns under GST has been reduced:

Type of Return	Tax liability / Aggregate Turnover	Late Fee
GSTR-1 / GSTR-3B (For the tax periods June 2021 onwards or quarter ending June 2021 onwards)	Tax payable is "Nil" irrespective of Turnover	Maximum of Rs. 500/- per return (Rs. 250/- each for CGST & SGST)
	Taxpayers with turnover up to Rs. 1.5 Crores in PFY not having 'Nil' tax payable	Maximum of Rs. 2000/- per return (Rs. 1000/- each for CGST & SGST)
	Taxpayers with turnover above Rs. 1.5 Crores and up to Rs. 5 Crores not having 'Nil' tax payable	Maximum of Rs. 5000/- per return (Rs. 2500/- each for CGST & SGST)
GSTR – 4 (From FY 2021-22 onwards)	Tax payable is "Nil" irrespective of Turnover	Maximum of Rs. 500/- per return (Rs. 250/- each for CGST & SGST)
	Other Taxpayers	Maximum of Rs. 2000/- per return (Rs. 1000/- each for CGST & SGST)
GSTR – 7	All Taxpayers	Rs. 50/- per day (Rs. 25/- each for CGST & SGST) Maximum of Rs. 2000/- per return (Rs. 1000/- each for CGST & SGST)

### Waiver of late fees and interest for filing of GSTR 3B – March to May 2021

Notification No. 18 and 19/2021- Central Tax - Dated June 01,2021

Relaxations have been granted by way of waiver of late fees as well as reduction in the interest payable in case of delayed filing of GSTR-3B for the periods March to May 2021

Category of Taxpayer	Month	Due Date	Late fee not to apply till	Applicability of interest
Turnover more than 5 crores in PFY (Monthly taxpayers and monthly GSTR 3B filers)	March 2021	20-04-2021	05-05-2021	<ul style="list-style-type: none"> <li>9% till 05-05-2021</li> <li>18% thereafter</li> </ul>
	April 2021	20-05-2021	04-06-2021	<ul style="list-style-type: none"> <li>9% till 04-06-2021</li> <li>18% thereafter</li> </ul>
	May 2021	20-06-2021	05-07-2021	<ul style="list-style-type: none"> <li>9% till 05-07-2021</li> <li>18% thereafter</li> </ul>
Turnover up to 5 crores in PFY. (Monthly taxpayers and monthly GSTR 3B filers)	March 2021	20-04-2021	19-06-2021	<ul style="list-style-type: none"> <li>Nil till 05-05-2021</li> <li>9% thereafter till 19-06-2021</li> <li>18% thereafter</li> </ul>
	April 2021	20-05-2021	04-07-2021	<ul style="list-style-type: none"> <li>Nil till 04-06-2021</li> <li>9% during the period 04-06-2021 to 04-07-2021</li> <li>18% thereafter</li> </ul>
	May 2021	20-06-2021	20-07-2021	<ul style="list-style-type: none"> <li>Nil till 05-07-2021</li> <li>9% during the period 05-07-2021 to 20-07-2021</li> <li>18% thereafter</li> </ul>
Turnover up to 5 crore in PFY. (Monthly taxpayer and quarterly GSTR 3B files under QRMP)	January to March 2021 **	22-04-2021	21-06-2021	<ul style="list-style-type: none"> <li>Nil till 07-05-2021</li> <li>9% during the period 07-05-2021 to 21-06-2021</li> <li>18% thereafter</li> </ul>
	January to March 2021 ***	24-04-2021	23-06-2021	<ul style="list-style-type: none"> <li>Nil till 09-05-2021</li> <li>9% during the period 09-05-2021 to 23-06-2021</li> <li>18% thereafter</li> </ul>
Composite Taxpayers (FORM CMP-08)	January to March 2021	18-04-2021	18-04-2021	<ul style="list-style-type: none"> <li>Nil till 03-05-2021</li> <li>9% during the period 03-05-2021 to 17-06-2021</li> <li>18% thereafter</li> </ul>

\*\*Category - A States: Chhattisgarh, Madhya Pradesh, Gujarat, Dadra and Nagar Haveli, Daman and Diu, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, Tamil Nadu, Puducherry, Andaman and Nicobar Islands, Telangana and Andhra Pradesh

\*\*\* Category - B States: Jammu and Kashmir, Ladakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Mizoram, Manipur, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha

### Extension in due dates of other returns and forms

Notification No. 17,25,26 and 27 /2021-Central Tax - Dated June 01,2021

Type of Return	Period	Existing Due Date	Revised Due Dates
GSTR -1 (Details for outward Supply)	May 2021	11-06-2021	26-06-2021
IFF (Invoice furnishing facility)	May 2021	01-06-2021 to 13-06-2021	01-06-2021 to 28-06-2021
GSTR 4 (Annual Return for Composition taxpayer)	F.Y. 2020-21	31-05-2021*	31-07-2021
FORM ITC-04 (Details of goods/capital goods sent to job worker and received back)	January to March 2021	31-05-2021**	30-06-2021

\* Revised due date via notification 10/2021-Central Tax dated 01-05-2021

\*\* Revised due date via notification 11/2021-Central Tax dated 01-05-2021

### Relaxation provided in condition to claim ITC as per rule 36(4)

Notification No. 27/2021 Central Tax - Dated June 01,2021

As per Rule 36 (4) of the CGST Rules, 2017, a registered person shall be entitled to claim ITC to the extent of 105% of the eligible ITC reflected in GSTR 2A/2B. This condition shall not apply for the GSTR 3B filed for the month of April and May 2021. However, the GSTR-3B for the month of June 2021 shall have to be furnished with a cumulative adjustment of ITC for the months of April, May, and June 2021.

In other words, the cumulative ITC appearing in the GSTR 2A / 2B for the months of April, May and June 2021 shall have to be compared with the cumulative ITC availed in the books for both the months and any excess credit availed during the month of April and May 2021 shall have to be reversed in GSTR 3B for June 2021.

### Filing of GST returns through EVC

Notification No. 27/2021 Central Tax - Dated June 01,2021

Under the GST law, Companies are compulsorily required to file GST returns using a Digital Signature Certificate (DSC). Considering the difficulties faced by the taxpayers due to lockdown imposed in many states, the Government has allowed Companies to file GSTR 3B, GSTR 1 and IFF by using Electronic Verification Code ('EVC') during the period 27 April 2021 to 31-08-2021 which was earlier allowed up to 31-05-2021.

### Retrospective amendment to Section 50 levying interest only on cash component of GST liability, notified

Notification No. 16/2021 Central Tax - Dated June 01, 2021

A proviso was inserted to Section 50 of the CGST Act, 2017 by the Finance Act, 2020 to provide that

interest shall be payable only on the net cash liability for the delayed payment of tax in case of late filing of GSTR 3B. While the said amendment seemed to be clarificatory in nature, there were still doubts on whether this amendment would have prospective/retrospective effect.

Section 112 of the Finance Act, 2021 sought to resolve this issue by substituting the said proviso retrospectively in the CGST Act, 2017. While the remaining provisions of the Finance Act, 2021 pertaining to GST are yet to be notified (considering that all the states shall have to pass similar amendments in the respective state GST Acts), the Government has notified this amendment given that the said amendment shall have effect retrospectively from 01 July 2017 irrespective of the date when such amendment is notified.

### Extension of time limit for completion or compliance of any action under the CGST Act

*Notification No. 24/2021 Central Tax - Dated June 01, 2021*

The time limit for compliance or completion of any action by any authority or any person, which falls during the period from 15-04-2021 to 29-06-2021 has been extended to 30-06-2021, except the following:

- Time of supply
- Registration procedures
- Time limit for issuing tax invoices
- Returns (since it is extended under other notifications)
- Arrest
- Penalty
- Detention / Seizure

- E-Way Bill

Further, where, the time limit for completion of any action by any authority or by any person, for verification of registration application falls between 01-05-2021 and 30-06-2021 and where completion of such action has not been made within such time, then, the time limit for completion of such action, shall be extended up to 15-07-2021.

In cases where a notice has been issued for rejection of refund claim, in full or in part, and where the time limit for issuance of order falls during the period from 15-04-2021 to 29-06-2021, in such cases, the time limit for issuance of the said order has been extended to fifteen days after the receipt of the reply to the notice from the registered person or the 30-06-2021, whichever is later.

### Other miscellaneous changes in terms of streamlining certain provisions

**Notification No. 02 and 03/2021- Central Tax (Rate) - Dated June 02, 2021**

Under the area sharing model for construction of apartments, the liability to pay GST in respect of construction services for the units transferred to landowner promoter by the developer promoter arises at the time of issuance of completion certificate. Under such scenario, the landowner promoter was not allowed to use such tax charged as ITC to pay his GST liability on the apartments sold by him. The Notifications No. 11/2017 (Rate), dated 28 June 2017 and 06/2019- Central Tax (Rate), dated 29 March, 2019 have been amended to make it unambiguous that the developer promoter shall be allowed to pay GST at any time before or at the time of issuance of completion certificate and that the landowner-promoter shall be eligible to utilise the credit of tax charged to him by the developer-promoter for payment of tax on apartments supplied by the landowner promoter in such project.

### **Notification No. 03/2021 Integrated Tax - Dated June 02,2021**

In case of supply of maintenance, repair or overhaul ('MRO') services in respect of ships and other vessels, their engines and other components or parts supplied to a person for use in the course or furtherance of business, the place of supply has been notified as the location of the recipient of service on the basis of effective use and enjoyment of a service. The default rule in case of services in the nature of repairs is the place where such services is performed. Hence, in case such services are performed in India for a person situated outside India, the benefit of zero rating for such supply would be available subject to satisfaction of other conditions. Hitherto, only service for aircraft and aircraft engines was given this treatment which has now been extended ships and other vessels.

### **Revision of Rates - Goods & Services:**

#### **Notification No. 01 and 02/2021 Central Tax (Rate) - Dated June 02,2021**

- Rate of Diethylcarbamazine (DEC) tablets has been reduced from 12% to 5%.
- GST on MRO (Maintenance, Repair, and overhaul) services in respect of Ship and other vessels, engines and other components services in respect of ships/vessels shall be reduced to 5% from 18%.

### **Decisions taken at the 43<sup>rd</sup> GST council meeting not yet notified**

#### **Annual Returns under GST**

The Finance Act, 2021 had removed the provision requiring the certification of reconciliation

statement in Form GTSTR 9C by a notified professional. In continuation to the same, the GST council has decided that the following which shall be applicable for the F.Y. 2020-21.

Aggregate Turnover	Annual Compliance requirement
Up to Rs. 2 Crores	Optional to file GSTR 9 /GSTR 9A
Above Rs. 2 Crores up to Rs. 5 Crores	Mandatory to file GSTR 9
Above Rs. 5 Crores	Mandatory to file self-certified reconciliation statement in form GSTR 9C

#### **Other changes on taxability of certain transactions**

- GST shall be payable on annuity payments received as deferred payment for construction of a road.
- Exemption from payment of GST shall be available for such annuities which are paid for the service by way of access to a road or a bridge.
- Services supplied to a Government Entity by way of construction of a ropeway would attract GST at the rate of 18%.
- Services supplied by the Government to its undertaking/PSU by way of guaranteeing loans taken by such entity from banks and financial institutions to be exempted from GST
- Services supplied to an educational institution including Anganwadi (which provide pre-school education also), by way of serving of food including mid-day meals under any midday meals scheme, sponsored by Government shall be exempted irrespective of

funding of such supplies i.e. whether from government grants or corporate donations.

- Services provided by way of examination including entrance examination, where the fee is charged for such examinations, by National Board of Examination (NBE), or similar Central or State Educational Boards, and input services relating thereto shall be exempt from GST.

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*For further analysis and discussion, you may please reach out to us.*

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