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Indirect Tax

June 26, 2024

Key recommendations made by the 53rd GST Council Meeting

Snapshot

- 53rd GST Council met under the Chairpersonship of Hon. Finance & Corporate Affairs Minister of India at New Delhi on 22 June 2024.
- Recommendations relating to changes in GST tax rates, measures for trade facilitation and measures for streamlining GST compliances have been made.
- The changes recommended by the GST Council would be given effect through relevant circular / notification / amendment to law, post which it shall have the force of law.

Key Recommendations

GST tax rates

Change in rate of GST has been recommended for following:

Goods / Service	Recommended GST rate
All milk cans (of steel, iron, and aluminum) irrespective of their use	12%
Carton, boxes and cases of both corrugated and non-corrugated paper or paper board' (HS 4819 10; 4819 20)	12%
All solar cookers whether single or dual energy source	12%
Parts of Poultry keeping Machinery	12%
Imports of 'Parts, components, testing equipment, tools, and tool kits of aircrafts', irrespective of their HS classification	5%
All types of sprinklers including fire water sprinklers	12%
Services provided by Indian Railways to general public, namely, sale of platform tickets, facility of retiring rooms/waiting rooms, cloak room services and battery-operated car services	Exempted
Services provided by Special Purpose Vehicles (SPV) to Indian Railway by way of allowing Indian Railway to use infrastructure built & owned by SPV during the concession period and maintenance services supplied by Indian Railways to SPV	Exempted
Accommodation services having value of supply of accommodation up to Rs. 20,000/- per month per person subject to the condition that the accommodation service is supplied for a minimum continuous period of 90 days.	Exempted

To extend IGST exemption:

- On import of specified items for defence forces for a further period of 5 years till 30 June 2029.
- On imports of research equipment/buoys imported under the Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction (RAMA) programme subject to specified conditions.

To exempt Compensation Cess on the imports in SEZ-by-SEZ Unit/developers for authorised operations w.e.f. 01 July 2017.

To exempt Compensation cess on supply of aerated beverages and energy drinks to authorised customers by Unit Run Canteens under Ministry of Defence.

To provide adhoc IGST exemption on imports of technical documentation for AK-203 rifle kits imported for Indian Defence forces.

Measures for trade facilitation

Waiver of interest and penalty for financial year 2017-18, 2018-19 and 2019-20

A new section 128A is recommended to be inserted in the CGST Act to provide that for demand notice issued under section 73 of the CGST Act (*i.e. for cases not involving fraud, willful misstatement or suppression of facts*), interest and penalty would be waived off for financial years 2017-18, 2018-19 and 2019-20 in case where the taxpayer pays the full amount of tax demanded in the notice up to 31 March, 2025. This would however not be applicable for demand of erroneous refunds.

Monetary limit recommended for filing appeal by GST department

Monetary limit recommended by GST Council (subject to certain exclusions) for filing of appeals by GST department

- GST Tribunal – Rs 20 lakh
- High Court – Rs 1 Crore
- Supreme Court – Rs 2 Crore

Time limit for filing appeal before the Appellate Tribunal

The three-month period for filing appeals before the Appellate Tribunal to start from a date to be notified by the Government in respect of appeal/ revision orders passed before the date of said notification.

Extension of time limit to avail input tax credit (ITC)

The GST Council recommended that the time limit to avail input tax credit in respect of any invoice or debit note under Section 16(4) of CGST Act, through any return in FORM GSTR 3B filed up to 30 November 2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30 November, 2021.

The GST Council also recommended retrospective amendment in Section 16(4) of CGST Act, to be made effective from 1 July, 2017, to conditionally relax the provisions of section 16(4) of CGST Act in cases where returns for the period from the date of cancellation of registration/ effective date of cancellation of registration till the date of revocation of cancellation of the registration, are filed by the registered person within thirty days of the order of revocation.

No interest if amount available in electronic cash ledger

The GST Council recommended amendment in rule 88B of CGST Rules to provide that an amount, which is available in the Electronic Cash Ledger on the due date of filing of return in FORM GSTR-3B, and is debited while filing the said return, shall not be included while calculating interest under section 50 of the CGST Act in respect of delayed filing of the said return.

Reduction in maximum amount required as pre-deposit for filing appeals

Amount of pre-deposit required for filing appeal has been recommended to be reduced as per below –

Maximum amount required for pre-deposit	Existing limits	Recommendation made
For filing appeal with the appellate authority	CGST – Rs 25 Crore SGST – Rs 25 Crore	CGST – Rs 20 Crore SGST – Rs 20 Crore
For filing appeal with the Appellate Tribunal	20% with a maximum amount of CGST – Rs 50 Crore SGST – Rs 50 Crore	10% with a maximum amount of CGST –Rs 20 Crore SGST – Rs 20 Crore

Reduction in rate of tax to be collected at source (TCS) by Electronic Commerce Operators

TCS to be collected by Electronic Commerce Operators recommended to be reduced from 1% to 0.5%

Recovery of tax not paid due to a general practice

The GST Council recommended inserting a new Section 11A in CGST Act to give powers to the Government, on the recommendations of the Council, to allow regularization of non-levy or short levy of GST, where tax was being short paid or not paid due to common trade practices.

Refund of IGST paid on account of upward revision in price of goods subsequent to exports

Recommended to prescribe a mechanism for claiming refund of additional IGST paid on account of upward revision in price of the goods subsequent to their export.

Clarification regarding valuation of supply of import of services by a related person where recipient is eligible to full input tax credit

The Council recommended to clarify that in cases where the foreign affiliate is providing certain services to the related domestic entity, for which full input tax credit is available to the said related

domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules. Further, in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules

Clarification on valuation of corporate guarantee provided between related persons

The GST Council recommended amendment of rule 28(2) of CGST Rules retrospectively with effect from 26.10.2023 and issuance of a circular to clarify various issues regarding valuation of services of providing corporate guarantees between related parties. It is *inter alia* being clarified that valuation under rule 28(2) of CGST Rules would not be applicable in case of export of such services and also where the recipient is eligible for full input tax credit.

Clarification with regard to time limit to avail ITC for tax paid under reverse charge mechanism (RCM)

The Council recommended to clarify that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under RCM and invoice is to be issued by the recipient only, the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of CGST Act is the financial year in which the invoice has been issued by the recipient.

Measures for streamlining GST compliances

New optional facility in Form GSTR 1A

The Council recommended providing a new optional facility by way of FORM GSTR-1A to facilitate the taxpayers to amend the details in FORM GSTR-1 for a tax period and/ or to declare additional details, if any, before filing of return in FORM GSTR-3B for the said tax period.

Obligation to file annual return waived for taxpayer having aggregate annual turnover up to two crore rupees

The Council recommended that filing of annual return in FORM GSTR-9/9A for the FY 2023-24 may be exempted for taxpayers having aggregate annual turnover up to two crore rupees.

Pre-deposit paid through DRC 03

The Council recommended amendment in rule 142 of CGST Rules and issuance of a circular to prescribe a mechanism for adjustment of an amount paid in respect of a demand through FORM GST DRC-03 against the amount to be paid as pre-deposit for filing appeal.

Due date extended for filing FORM GSTR-4 for composition taxpayers

The Council recommended extending the due date for filing return in FORM GSTR-4 for composition taxpayers from 30 April to 30 June following the end of the financial year. This will apply for returns for financial year 2024-25 onwards.

Other significations recommendations

- GST council recommended to provide clarification on some 11 topics to provide clarity to trade and tax officers and to reduce litigation.
- Recommended to roll-out the biometric-based Aadhaar authentication of registration applicants on pan-India basis in a phased manner.
- The GST Council recommended to provide for a common time limit for issuance of demand notices and orders in respect of demands for FY 2024-25 onwards, in cases involving charges of fraud or wilful misstatement and not involving the charges of fraud or wilful misstatement etc. Also, the time limit for the taxpayers to avail the benefit of reduced penalty, by paying the tax demanded along with interest, has been recommended to be increased from 30 days to 60 days.
- Recommended to amend section 16 of IGST Act and section 54 of CGST Act to provide that the refund in respect of goods, which are subjected to export duty, is restricted, irrespective of whether the said goods are exported without payment of taxes or with payment of taxes, and such restrictions should also be applicable, if such goods are supplied to a SEZ developer or a SEZ unit for authorized operations.
- The threshold for reporting of B2C inter-State supplies invoice-wise in Table 5 of FORM GSTR-1 was recommended to be reduced from Rs 2.5 Lakh to Rs 1 Lakh.
- The GST Council recommended that return in FORM GSTR-7, to be filed by the registered

persons who are required to deduct tax at source under section 51 of CGST Act, is to be filed every month irrespective of whether any tax has been deducted during the said month or not. It has also been recommended that no late fee may be payable for delayed filing of Nil FORM GSTR-7 return. Further, it has been recommended that invoice-wise details may be required to be furnished in the said FORM GSTR-7 return.

- Recommended amendment in section 140(7) of CGST Act retrospectively w.e.f.01 July 2017 to provide for transitional credit in respect of invoices pertaining to services provided before appointed date, and where invoices were received by Input Service Distributor (ISD) before the appointed date.
- The Council recommended amending section 171 and section 109 of CGST Act, 2017 to

provide a sunset clause for anti-profiteering under GST and to provide for handling of anti-profiteering cases by Principal bench of GST Appellate Tribunal (GSTAT). The council has also recommended the sun-set date of 01 April 2025 for receipt of any new application regarding anti-profiteering.

The changes recommended by the GST Council would be given effect through relevant circular / notification / amendment to law, post which it shall have the force of law.

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