

GOODS & SERVICES TAX / IDT UPDATE-171

Recommendations of the 49th GST Council Meeting

The 49th GST Council meeting held on 18th February 2023 has made the following recommendations:

1. GST Appellate Tribunal

The Council adopted the report of Group of Ministers with certain modifications. The final draft amendments to the GST laws shall be circulated to Members for their comments. The Chairperson has been authorised to finalise the same.

2. No capacity based levy for commodities like pan masala, gutkha and chewing tobacco

With a view to plug the leakages and improve the revenue collection from the commodities like pan masala, gutkha, chewing tobacco, the Council approved the recommendations of the GoM including, inter alia, that

- the capacity based levy not to be prescribed
- compliance and tracking measures to be taken to plug leakages/evasions
- exports of such commodities to be allowed only against LUT with consequential refund of accumulated ITC
- compensation cess levied on such commodities to be changed from ad valorem to specific tax based levy to boost the first stage collection of the revenue

3. Recommendations relating to GST rates on Goods and Services

- The GST rate has been reduced on 'Rab' from 18% to 5% if sold pre-packaged and labelled and Pencil Sharpener from 18% to 12%.
- It has been decided to regularize payment of GST on 'rab' during the past period on "as is basis" on account of genuine doubts over its classification and applicable GST rate.
- It was decided to suitably amend notification No. 104/94-Customs dated 16.03.1994 so that if a device like tag- tracking device or data logger is already affixed on a container, no separate IGST shall be levied on such affixed device and the 'nil' IGST treatment available for the containers under notification No. 104/94-Customs shall also be available to such affixed device subject to the existing conditions.
- It has been decided to amend entry No. 41A of *Notification No. 1/2017-Compensation Cess (Rate)* so that exemption benefit covers both coal rejects supplied to and by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has been availed by any person.
- It has been decided to extend the exemption available to educational institutions and Central and State educational boards for conduct of entrance examination to

any authority, board or a body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions.

- It has been decided to extend the dispensation available to Central Government, State Governments, Parliament and State Legislatures with regard to payment of GST under reverse charge mechanism (RCM) to the Courts and Tribunals also in respect of taxable services supplied by them such as renting of premises to telecommunication companies for installation of towers, renting of chamber to lawyers etc.

4. Measures for facilitation of trade

a) Extension of time limit for application for revocation of cancellation of registration and one time relaxation for past cases:

- the time limit for making an application for revocation of cancellation of registration be increased from 30 days to 90 days
- where the registered person fails to apply for such revocation within 90 days, the said time period may be extended by the Commissioner or an officer authorised by him in this behalf for a further period not exceeding 180 days.

The Council has also recommended to provide a one-time relaxation scheme for conditional deemed withdrawal of assessment orders in past cases where the concerned return could not be filed within 30 days of the assessment order but has been filed along with due interest and late fee upto a specified date, irrespective of whether appeal has been filed or not against the assessment order, or whether the said appeal has been decided or not.

b) Rationalisation of Late fee for Annual Return

Presently, late fee of Rs 200 per day (Rs 100 CGST + Rs 100 SGST), subject to a maximum of 0.5% of the turnover in the State or UT (0.25% CGST + 0.25% SGST), is payable in case of delayed filing of annual return in FORM GSTR-9. The Council recommended to rationalise this late fee for delayed filing of annual return in FORM GSTR-9 for FY 2022-23 onwards, for registered persons having aggregate turnover in a financial year upto Rs 20 crore.

c) Relaxation in respect of pending returns in FORM GSTR-4, FORM GSTR-9 and FORM GSTR-10

To provide relief to a large number of taxpayers, the Council recommended amnesty schemes in respect of pending returns in FORM GSTR-4, FORM GSTR-9 and FORM GSTR-10 by way of conditional waiver/ reduction of late fee.

d) Rationalization of provision of place of supply of services of transportation of goods

Council recommended to rationalize the provision of place of supply for services of transportation of goods by deletion of section 13(9) of IGST Act, 2017 so as to provide that the place of supply of services of transportation of goods, in cases where location of supplier of services or location of recipient of services is outside India, shall be the location of the recipient of services.

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