



The Institute of Chartered Accountants of India

GST & Indirect Taxes Committee

GOODS & SERVICES TAX UPDATE-184

Recommendations of the 50th GST Council Meeting held on 11th July, 2023

1. Filing of declaration by GTAs

Goods Transport Agencies (GTAs) need not file a declaration for paying GST under forward charge every year. If they have exercised this option for a particular financial year, they shall be deemed to have exercised it for the next and future financial years unless they file a declaration that they want to revert to reverse charge mechanism (RCM). Further, the last date for exercising the option by GTAs to pay GST under forward charge shall be 31st March of preceding Financial Year instead of 15th March. 1st January of the preceding Financial Year shall be the start date for exercise of the option.

2. Clarification on taxability of services supplied by a director of a company to the company in his private or personal capacity

Services supplied by a director of a company to the company in his private or personal capacity such as supplying services by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by a director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under *Notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017*.

3. Supply of food and beverages in cinema halls

Supply of food and beverages in cinema halls is taxable as restaurant service at the rate of 5%, as long as

- (a) they are supplied by way of or as part of a service, and
- (b) supplied independently of the cinema exhibition service.

Where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema i.e., the principal supply.

4. Tax on Casinos, Racecourses and Online Gaming

It has been recommended:

- a) To include online gaming and horse racing in schedule III as taxable actionable claims.
- b) Casinos, Racecourses and Online Gaming to be taxed at the rate of 28%.
- c) Tax shall be applicable on the
 - face value of the chips purchased in the case of casinos
 - full value of the bets placed with bookmaker/totalisator in the case of Horse Racing, and
 - full value of the bets placed in case of the Online Gaming.

5. Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2023

The Council recommended the rules governing appointment and conditions of President and Members of the proposed GST Appellate Tribunal for enabling smooth constitution and functioning of GST Appellate Tribunal. Further, it has been recommended that the Chief Secretary of Maharashtra may be nominated as one of the members of Search cum selection Committee. It has also been recommended that provisions of the Finance Act, 2023 pertaining to GST Appellate Tribunal may be notified by the Centre with effect from 01.08.2023. Further, the State Benches shall be started in a phased manner.

6. Annual Returns for FY 2022-23

- a) Relaxations provided in FY 2021-22 in respect of various tables of FORM GSTR-9 and FORM GSTR-9C be continued for FY 2022-23.
- b) Exemption from filing of annual return (in FORM GSTR-9/9A) for taxpayers having aggregate annual turnover upto two crore rupees, to be continued for FY 2022-23 also.

7. Input Services Distributor (ISD) mechanism not mandatory for distribution of input tax credit of common input services procured from third parties to the distinct persons

It has been recommended to clarify that Input Services Distributor (ISD) mechanism shall not be mandatory for distribution of input tax credit of common input services procured from third parties to the distinct persons as per the present provisions of GST law, and also to clarify issues regarding taxability of internally generated services provided by one distinct person to another distinct person. The Council has also recommended that amendment may be made in GST law to make ISD mechanism mandatory prospectively for

distribution of input tax credit of such common input services procured from third parties.

8. GST liability and reversal of input tax credit in cases involving warranty replacement of parts and repair services during warranty period

Circular to be issued clarifying, inter alia, that no GST is chargeable by the manufacturer on replacement of parts and/ or repair service and also, no reversal of input tax credit is required to be made by the manufacturer in cases involving warranty replacement of parts and repair services during warranty period without any consideration from the customers.

9. Circular to be issued to clarify on the following refund related issues:

- a) Consequent to the amendment made in rule 36(4) of CGST Rules 2017 with effect from 01.01.2022, refund of accumulated input tax credit (ITC) under section 54(3) of the CGST Act, 2017 for a tax period to be restricted to ITC on inward supplies reflected in FORM GSTR-2B of the said tax period or any previous tax period.
- b) Consequent to Explanation having been inserted in rule 89(4) of CGST Rules vide *Notification No. 14/2022- CT dated 05.07.2022*, the value of export goods, to be included while calculating “adjusted total turnover” in the formula under rule 89(4), will be determined as per the said explanation.
- c) Clarification regarding admissibility of refund in cases, where export of goods, or the realization of payment for export of services, as the case may be, is made after the time limit provided under rule 96A of CGST Rules, 2017.

10. Clarification on TCS liability under section 52 where multiple E-commerce Operators (ECOs) are involved in a single transaction of supply of goods or services or both

A circular to be issued to provide clarification on the above transaction.

11. Amendment in rule 46 (Tax invoice) of the CGST Rules, 2017

Rule 46(f) to be amended to provide for requirement of only the name of the State of the recipient, and not the name and full address of the recipient, on the tax invoice in cases of supply of taxable services by or through an ECO or by a supplier of OIDAR services to an unregistered recipient.

12. Issuance of the circulars on following issues to remove ambiguity and legal disputes

- a) Clarifying that the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, are required to issue e-invoices under rule 48(4) of CGST Rules for the supplies made to Government Departments or establishments / Government agencies / local authorities / PSUs, etc., registered solely for the purpose of TDS.
- b) Clarification regarding the manner of calculation of interest amount liable to be paid

under section 50(3) of CGST Act, 2017 in respect of wrongly availed and utilized IGST credit, clarifying *inter alia* that in cases of wrong availment of IGST credit, the balance of input tax credit (ITC) in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be taken in consideration while calculating such interest liability as per rule 88B of CGST Rules, 2017.

- c) Clarifying that mere holding of securities of a subsidiary company by a holding company cannot be treated as a supply of services and therefore, cannot be taxed under GST.

13. Circular similar to [Circular No. 183/15/2022-GST dated 27th December, 2022](#) to be issued for the period 01.04.2019-31.12.2021

A new Circular similar to [Circular No. 183/15/2022-GST dated 27th December, 2022](#) which was issued for verification of difference in input tax credit availed in FORM GSTR-3B *vis a vis* that is available as per FORM GSTR-2A during FY 2017-18 and 2018-19 shall be issued for the period 01.04.2019-31.12.2021.

14. Permitting of manual filing of appeal against the orders passed in TRAN-1/ TRAN-2

Special procedure to be provided under section 148 of CGST Act, 2017 to enable manual filing of appeal against the orders passed by proper officers in respect of TRAN-1/ TRAN-2 claims of the registered persons, filed in pursuance of the directions of Hon'ble Supreme Court in case of the *Union of India v/s Filco Trade Centre Pvt. Ltd.*

15. Amendment in rules 108(1) and 109(1) of the CGST Rules, 2017

Rule 108(1) and rule 109(1) of the CGST Rules, 2017 to be amended to provide for manual filing of appeal under certain specified circumstances.

16. Extension of certain Amnesty schemes till 31.08.2023

The Council has recommended to extend the amnesty schemes notified vide notifications dated 31.03.2023 regarding non-filers of FORM GSTR-4, FORM GSTR-9 & FORM GSTR-10 returns, revocation of cancellation of registration and deemed withdrawal of assessment orders issued under section 62 of the CGST Act, 2017, till 31.08.2023.

17. Extension of due dates of FORM GSTR-1, FORM GSTR-3B and FORM GSTR-7 in the State of Manipur

In view of the prevailing law and order situation in the State of Manipur, the Council has recommended to extend the due dates for filing of FORM GSTR-1, FORM GSTR-3B and FORM GSTR-7 for the months of April, May and June, 2023 for the registered persons of the State of Manipur till 31.07.2023.

18. Mandatory requirement of generation of e-way bills for intra-State movement of gold

and precious stones

The Council has recommended to insert rule 138F in CGST Rules, 2017 as well as in SGST Rules, 2017 of the States, who want to mandate the requirement of generation of e-way bills for intra-State movement of gold and precious stones under Chapter 71 within their States.

19. Capacity based taxation and Special Composition Scheme

a) Special procedure to be prescribed for the manufacturers of tobacco, pan masala & other similar items

A notification shall be issued to prescribe a special procedure to be followed by the manufacturers of tobacco, pan masala & other similar items *inter alia* for registration of machines and for filing of special monthly returns.

b) Special penalty to be prescribed for non-registration of machines by such manufacturers through insertion of section 122A in the Act.

c) Amendment in section 16 (Zero-rated supply) of IGST Act made vide Finance Act, 2021 to be notified

Provisions of section 123 of Finance Act, 2021 amending section 16 of the IGST Act, to be notified with effect from 01.10.2023. Further notification to be issued under section 16(4) of the IGST Act, 2017 providing for restriction of IGST refund route in respect of exports of tobacco, pan masala & other similar items as well as mentha oil.

20. Amendment in rules relating to registration

The Council has recommended the following amendments in CGST Rules, 2017 to strengthen the registration process and to effectively deal with the menace of fake and fraudulent registrations in GST:

a) Rule 10A - Furnishing of Bank Account Details

Rule 10A to be amended to provide that the details of bank account, in name and PAN of the registered person, to be furnished within 30 days of grant of registration or before filing of statement of outwards supply under section 37 of CGST Act in FORM GSTR-1/ IFF, whichever is earlier.

b) Amendment in rule 21A(2A) - Suspension of Registration

This amendment shall provide for system-based suspension of the registration in respect of such registered persons who do not furnish the details of valid bank account under rule 10A with the time period prescribed under the said rule.

c) Insertion of 3rd proviso in rule 21A(4)

This insertion shall provide for automatic revocation of such system-based suspension upon compliance with provisions of rule 10A.

d) Amendment in rule 59(6) - Form and manner of furnishing details of outward supplies

Council has recommended to provide that where a registered person has not furnished details of a valid bank account under rule 10A, the said registered person may not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using IFF.

e) Amendment in rule 9 (Verification of the application and approval) and rule 25 (Physical verification of business premises in certain cases)

It has been decided to do away with the requirement that the physical verification of business premises is to be conducted in the presence of the applicant and also to provide for physical verification in high-risk cases even where Aadhaar has been authenticated.

21. Pilot of risk-based biometric-based Aadhaar authentication

It has been recommended to conduct pilot of risk-based biometric-based Aadhaar authentication in U.T. of Puducherry and eventually in the State of Andhra Pradesh.

22. Procedure for recovery of tax and interest in terms of Rule 88C(3) - Manner of dealing with difference in liability reported in Form GSTR-1 and that reported in Form GSTR-3B

The Council has recommended insertion of rule 142B in the CGST Rules, 2017 and insertion of a FORM GST DRC-01D to provide for manner of recovery of the tax and interest in respect of the amount intimated under rule 88C, where the output tax liability in terms of FORM GSTR-1 of a registered person for any particular month exceeds the output tax liability disclosed by the said person in the return in **FORM GSTR-3B** for the said month by a specified threshold, which has not been paid and for which no satisfactory explanation has been furnished by the registered person.

23. Mechanism to deal with differences in ITC between FORM GSTR-2B and FORM GSTR-3B

The Council has recommended a mechanism for system-based intimation to the taxpayers in respect of the excess availment of ITC in FORM GSTR-3B *vis a vis* that is made available in FORM GSTR-2B above a certain threshold, along with the procedure of auto-compliance on the part of the taxpayers, to explain the reasons for the said difference or take remedial action in respect of such difference. For this purpose, rule 88D and FORM DRC-01C to be inserted in CGST Rules, 2017, along with an amendment in rule 59(6) of

CGST Rules, 2017. This will help in reducing ITC mismatches and misuse of ITC facility in GST.

24. Amendment in Form GSTR 3A (Notice to return defaulter u/s 46 for not filing return)

FORM GSTR-3A to be amended to provide for issuance of notice to the registered taxpayers for their failure to furnish Annual Return in FORM GSTR-9 or FORM GSTR-9A by due date.

25. Amendment in Rule 64 (Form and manner of submission of return by persons providing OIDAR services)

It has been recommended to amend rule 64 and FORM GSTR-5A of CGST Rules, 2017 to require OIDAR service providers to provide the details of supplies made to registered persons in India in his return in FORM GSTR-5A. This will help in tracking due payment of tax on reverse charge basis by such registered persons in India in respect of supplies received from OIDAR service providers.

26. New explanation to be inserted in Rule 43 - Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases

Explanation 3 to be inserted after rule 43 of CGST Rules, 2017 to prescribe that the value of supply of goods from Duty Free Shops at arrival terminal in international airports to the incoming passengers to be included in the value of exempt supplies for the purpose of reversal of input tax credit.

27. A new sub-rule to be inserted in rule 162 - Procedure for compounding of offences

Sub-rule (3A) to be inserted in rule 162 of CGST Rules, 2017 to prescribe the compounding amount for various offences under section 132 of CGST Act, 2017.

28. Insertion of rule 163 in CGST Rules, 2017- Manner and conditions of consent-based sharing of information of registered persons available on the common portal with other systems

The Council has recommended insertion of rule 163 in CGST Rules, 2017 to provide for manner and conditions of consent-based sharing of information of registered persons available on the common portal with other systems. The Council has also recommended issuance of a notification under **section 158A** of CGST Act, 2017 for notifying “Account Aggregators” as the systems with which information is to be shared by the common portal.

29. Place of supply in respect of supply of goods to unregistered persons

The Council has recommended insertion of a clause (ca) in sub-section (1) of section 10 of the IGST Act, 2017 to clarify the place of supply in respect of supply of goods to unregistered persons.

30. State level coordination Committee

The GST Council has recommended to form a State level coordination Committee comprising of GST officers from both State and Central GST administrations for knowledge sharing on GST matters and coordinated efforts towards administrative and preventive measures.

31. IT System Reforms

The GoM has recommended various measures to curb frauds in GST through System based measures for strengthening registration process in GST, more use of third-party data for risk management and controlling flow of fake Input Tax Credit down the supply chain.

32. Recommendations with respect to change in rates of tax

a) Changes related to rates of goods

The rates of following goods have been reduced and it has been decided to regularise the payment of GST on these products during the past period on “as is basis”:

S. No	Item	Rate
1.	Uncooked/unfried snack pellets	5%
2.	Imitation zari thread or yarn	5%
3.	LD slag	5%
4.	Fish soluble paste	5%

b) It has been decided to exempt IGST on the following goods when imported for personal use:

(i) Dinutuximab (Quarziba) medicine

(ii) Medicines and Food for Special Medical Purposes (FSMP) used in the treatment of rare diseases enlisted under the National Policy for Rare Diseases, 2021 when imported for personal use subject to existing conditions

c) IGST exemption is also being extended to FSMP when imported by Centres of Excellence for Rare Diseases or any person or institution on recommendation of any of the listed Centres of Excellence.

33. Levy of Compensation Cess on all utility vehicles which satisfy certain specified parameters

It has been decided to levy compensation cess on all utility vehicles, by whatever name

called, provided they meet the parameters of length exceeding 4000 mm, engine capacity exceeding 1500 cc and having ground clearance of 170 mm & above. It shall also be clarified that ‘Ground clearance’ means ground clearance in un-laden condition.

- 34.** It has been decided to regularize the matters relating to:
- (i) trauma, spine and arthroplasty implants for the period prior to 18.07.2022 on “as is basis” in view of genuine interpretational issues.
 - (ii) desiccated coconut for the period 1.7.2017 to 27.7.2017 on “as is basis” in view of genuine interpretational issues.
 - (iii) GST on plates and cups made of areca leaves prior to 01.10.2019.
 - (iv) GST on biomass briquettes for the period 01.7.2017 to 12.10.2017.
- 35.** It has been decided to clarify that supply of raw cotton, including kala cotton, by agriculturists to cooperatives shall be taxable under reverse charge mechanism and to regularise issues relating for the past period on “as is basis”.
- 36.** It has been decided to include RBL Bank and ICBC bank in the list of specified banks for which IGST exemption is available on imports of gold, silver or platinum and update the list of banks /entities eligible for such IGST exemption as per Annexure 4B (HBP) of Foreign Trade Policy 2023.
- 37.** The earlier ad valorem rate applicable on 31st March 2023 may be notified for the levy of Compensation Cess on pan masala, tobacco products, etc., where it is not legally required to declare the retail sale price.
- 38.** Consequential changes to be carried out in notifications in view of Foreign Trade Policy, 2023.

[Press Release](#)

***Vice – Chairman
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