



## The Institute of Chartered Accountants of India GST & Indirect Taxes Committee

### GOODS & SERVICES TAX UPDATE-219

#### Recommendations of the 53<sup>rd</sup> GST Council Meeting

Following recommendations have been made in the 53<sup>rd</sup> GST Council Meeting held on 22<sup>nd</sup> June, 2024 in New Delhi:

#### 1. Services to be exempted

##### (a) Exemption of services provided by Indian Railways to general public:

To exempt the 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 and to also exempt the Intra-Railway transactions. The issue for the past period will be regularized from 20.10.2023 to the date of issue of exemption notification in this regard.

##### (b) Exemption of services provided by Special Purpose Vehicles (SPV) to Indian Railway

To exempt GST on the 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. The issue for the past will be regularized on 'as is where is' basis for the period from 01.07.2017 till the date of issue of exemption notification in this regard.

##### (c) Exemption to accommodation services subject to certain conditions

To create a separate entry in *Notification No. 12/2017- CT(R) 28.06.2017* under heading 9963 to exempt 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. To extend similar benefit for past cases.

#### 2. Other changes relating to Services

(a) Changes related to Insurance Sector Service

- Co-insurance premium apportioned by lead insurer to the co-insurer for the supply of insurance service by lead and co-insurer to the insured in coinsurance agreements, may be declared as no supply under Schedule III of the CGST Act, 2017 and past cases may be regularized on 'as is where is' basis.
- Transaction of ceding commission/re-insurance commission between insurer and re-insurer may be declared as no supply under Schedule III of CGST Act, 2017 and past cases may be regularized on 'as is where is' basis.
- GST liability on reinsurance services of specified insurance schemes covered by Sr. Nos. 35 & 36 of notification No. 12/2017-CT (Rate) dated 28.06.2017 may be regularized on 'as is where is' basis for the period from 01.07.2017 to 24.01.2018.
- GST liability on reinsurance services of the insurance schemes for which total premium is paid by the Government that are covered under Sr. No. 40 of *Notification No. 12/2017-CT(R) dated 28.06.2017* may be regularized on 'as is where is' basis for the period from 01.07.2017 to 26.07.2018.
- To issue clarification that retrocession is 're-insurance of re-insurance' and therefore, eligible for the exemption under Sl. No. 36A of the notification No. 12/2017-CTR dated 28.06.2017.

(b) Changes related to other sectors

- To issue clarification that statutory collections made by Real Estate Regulatory Authority (RERA) are exempt from GST as they fall within the scope of entry 4 of No.12/2017-CTR dated 28.06.2017.
- To issue clarification that further sharing of the incentive by acquiring bank with other stakeholders, where the sharing of such incentive is clearly defined under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions and is decided in the proportion and manner by NPCI in consultation with the participating banks is not taxable.

**(c) Insertion of section 128A in CGST Act to provide for conditional waiver of interest or penalty or both, relating to demands raised under Section 73, for FY 2017-18 to FY 2019-20**

It has been recommended to waive interest and penalties for demand notices issued under section 73 of the CGST Act for the fiscal years 2017-18, 2018-19 and 2019-20, in cases where the taxpayer pays the full amount of tax demanded in the notice

upto 31.03.2025. The waiver does not cover demand of erroneous refunds.

**(d) Changes related to Appeals**

➤ **Reduction of Government Litigation by Fixing monetary limits for filing appeals under GST**

The Council recommended to prescribe monetary limits, subject to certain exclusions, for filing of appeals in GST by the department before GST Appellate Tribunal, High Court, and Supreme Court, to reduce government litigation. The following monetary limits have been recommended by the Council:

- GSTAT: Rs. 20 lakhs
- High Court: Rs. 1 crore
- Supreme Court: Rs. 2 crores

➤ **Amendment in Section 107 and Section 112 of CGST Act for reducing the amount of pre-deposit required to be paid for filing of appeals under GST**

The GST Council recommended reducing the amount of pre-deposit for filing of appeals under GST to ease cash flow and working capital blockage for the taxpayers. The maximum amount for filing appeal with the appellate authority has been proposed to reduce from Rs. 25 crores CGST and Rs. 25 crores SGST to Rs. 20 crores CGST and Rs. 20 crores SGST. Further, the amount of pre-deposit for filing appeal with the Appellate Tribunal has been proposed to reduce from 20% to a maximum amount of Rs. 50 crores CGST and Rs. 50 crores SGST to 10 % with a maximum of Rs. 20 crores CGST and Rs. 20 crores SGST.

➤ **Time for filing appeals in GST Appellate Tribunal**

The GST Council has recommended to amend section 112 of the CGST Act, 2017 to allow 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. This will give sufficient time to the taxpayers to file appeal before the Appellate Tribunal in the pending cases.

**(e) Applicability of Goods and Services Tax on Extra Neutral Alcohol (ENA) Taxation of ENA under GST**

The GST Council, in its 52<sup>nd</sup> meeting, had recommended to amend GST Law to explicitly exclude rectified spirit/Extra Neutral Alcohol (ENA) from the scope of GST when supplied for manufacturing alcoholic liquors for human

consumption. The GST Council has now recommended amendment in sub-section 9(1) of the CGST Act, 2017 for not levying GST on Extra Neutral Alcohol used for manufacture of alcoholic liquor for human consumption.

**(f) Reduction in rate of TCS to be collected by the ECOs for supplies being made through them**

Electronic Commerce Operators (ECOs) are required to collect Tax Collected at Source (TCS) on net taxable supplies under Section 52(1) of the CGST Act. The GST Council has recommended to reduce the TCS rate from present 1% (0.5% CGST + 0.5% SGST/ UTGST, or 1% IGST) to 0.5 % (0.25% CGST + 0.25% SGST/UTGST, or 0.5% IGST), to ease the financial burden on the suppliers making supplies through such ECOs.

**(g) Relaxation in condition of section 16(4) of the CGST Act**

➤ **In respect of initial years of implementation of GST, i.e., financial years 2017-18, 2018-19, 2019-20 and 2020-21**

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 upto 30.11.2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30.11.2021. For the same, requisite amendment in section 16(4) of CGST Act, retrospectively, w.e.f. 01.07.2017, has been recommended by the Council.

➤ **With respect to cases where returns have been filed after revocation**

A retrospective amendment in section 16(4) has been recommended to be made effective from July 1<sup>st</sup>, 2017, to conditionally relax the provisions of section 16(4) 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.

**(h) Change in due date for filing of return in FORM GSTR-4 for composition taxpayers from 30<sup>th</sup> April to 30<sup>th</sup> June**

To apply for returns for the financial year 2024-25 onwards and shall be made applicable by amending Rule 62(1)(ii).

**(i) Amendment of Rule 88B of CGST Rules, 2017 in respect of interest under Section 50 on delayed filing of returns, in cases where the credit is available in**

**Electronic Cash Ledger (ECL) on the due date of filing the said return.**

- (j) **Insertion of Section 11A in the CGST Act for granting power not to recover duties not levied or short-levied as a result of general practice.**
- (k) **Refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to export**

A mechanism to be provided or claiming refund of additional IGST paid on account of upward revision in price of the goods subsequent to their export.

**(l) Following clarifications to be issued:**

- 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 regarding availability of Input Tax Credit (ITC) on ducts and manholes used in the network of Optical Fiber Cables (OFCs)

The Council recommended to clarify that input tax credit is not restricted in respect of ducts and manhole used in network of optical fiber cables (OFCs), under clause (c) or under clause (d) of sub-section (5) of section 17 of CGST Act.

- Clarification on the place of supply applicable for custodial services provided by banks

The Council recommended to clarify that place of supply of Custodial services supplied by Indian Banks to Foreign Portfolio Investors is determinable as per Section 13(2) of the IGST Act, 2017.

- Clarification on valuation of corporate guarantee provided between related persons after insertion of Rule 28(2) of CGST Rules, 2017

To amend 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 regarding applicability of provisions of Section 16 (4) of CGST Act, 2017, in respect of invoices issued by the recipient under Reverse Charge Mechanism (RCM)

To clarify that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (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.

- Clarification on taxability of re-imbursalment of securities/shares as ESOP/ESPP/RSU provided by a company to its employees
- Clarification on requirement of reversal of input tax credit in respect of amount of premium in Life Insurance services, which is not included in the taxable value as per Rule 32(4) of CGST Rules
- Clarification on taxability of wreck and salvage values in motor insurance claims
- Clarification in respect of Warranty/ Extended Warranty provided by Manufacturers to the end customers
- Clarification regarding availability of input tax credit on repair expenses incurred by the insurance companies in case of reimbursement mode of settlement of motor vehicle insurance claims
- Clarification on taxability of loans granted between related person or between group companies.
- Clarification on time of supply on Annuity Payments under HAM Projects.
- Clarification regarding time of supply in respect of allotment of Spectrum to

Telecom companies in cases where payment of licence fee and Spectrum usage charges is to be made in instalments.

- Clarification relating to place of supply of goods supplied to unregistered persons, where delivery address is different from the billing address
  - Clarification on mechanism for providing evidence by the suppliers for compliance of the conditions of section 15(3)(b)(ii) of CGST Act, 2017 in respect of post-sale discounts, to the effect that input tax credit has been reversed by the recipient on the said amount.
  - Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities, like pan masala, tobacco etc.
- (m) Amendment in section 140(7) retrospectively w.e.f. 01.07.2017 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.
- (n) 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.
- (o) Filing of annual return in FORM GSTR-9/9A for the FY 2023-24 may be exempted for taxpayers having aggregate annual turnover upto Rs. 2 crores.
- (p) Section 122(1B) is said to be amended retrospectively w.e.f. 01.10.2023, so as to clarify that the said penal provision is applicable only for those e-commerce operators, who are required to collect tax under section 52, and not for other e-commerce operators.
- (q) Amendment of rule 142 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.
- (r) The threshold for reporting of B2C inter-State supplies invoice-wise in Table 5 of **FORM GSTR-1** to be reduced from Rs 2.5 Lakh to Rs 1 Lakh.
- (s) Amendments proposed related to FORM GSTR-7
- It is to be filed every month irrespective of whether any tax has been deducted during the said month or not.
  - No late fee may be payable for delayed filing of Nil **FORM GSTR-7** return.
  - Invoice-wise details may be required to be furnished in the said FORM GSTR-7.

### 3. Other measures pertaining to Law and Procedures

- (a) Rolling out of bio-metric based Aadhaar authentication on All-India basis.
- (b) Amendments in section 73 and section 74 and insertion of a new section 74A in CGST Act, to provide for common time limit for issuance of demand notices and orders irrespective of whether case involves fraud, suppression, willful misstatement etc., or not.
- (c) Amendment in 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). Council has also recommended the sunset date of 01.04.2025 for receipt of any new application regarding anti-profiteering.
- (d) Amendment in section 16 of IGST Act and section 54 of CGST Act to curtail refund of IGST in cases where export duty is payable, 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.

### 4. Changes in GST rates of goods

S. No.	Goods	Change in Rates
1.	Imports of 'Parts, components, testing equipment, tools and tool-kits of aircrafts, irrespective of their HS classification	A uniform rate of 5% IGST to apply
2.	All milk cans (of steel, iron and aluminium)	12% GST (irrespective of their use)
3.	Carton, boxes and cases of both corrugated and non-corrugated paper or paper-board' (HS 4819 10; 4819 20	18% to 12%.
4.	All solar cookers whether single or dual energy source	12%
5.	All types of sprinklers including fire water sprinklers	12%

### 5. Other Goods related changes

- (a) To amend existing entry covering Poultry keeping Machinery attracting 12% GST to specifically incorporate "parts of Poultry keeping Machinery" and to regularise past practice on 'as is where is' basis in view of genuine interpretational issues.



- (b) To extend IGST exemption on imports of specified items for defence forces for a further period of five years till 30<sup>th</sup> June, 2029.
- (c) To extend IGST exemption 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.
- (d) To exempt Compensation Cess on the imports in SEZ-by-SEZ Unit/developers for authorised operations w.e.f. 01.07.2017.
- (e) To exempt Compensation cess on supply of aerated beverages and energy drinks to authorised customers by Unit Run Canteens under Ministry of Defence.
- (f) To provide Ad hoc IGST exemption on imports of technical documentation for AK-203 rifle kits imported for Indian Defence forces.

***Vice - Chairman***  
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