



RECOMMENDATIONS OF THE 55TH MEETING OF THE GST COUNCIL

The 55th GST Council meeting was held on 21 December 2024. The recommendations made by the GST Council are summarised below:

Legislative changes

1. Schedule III to the Central Goods and Services Tax Act, 2017 (CGST Act) would be amended with retrospective effect from 1 July 2017 by introducing new clause (aa) in paragraph 8 to provide that supply of goods warehoused in a Special Economic Zone (SEZ) or Free Trade Warehousing Zone (FTWZ) to any person before clearance of such goods for exports or to the Domestic Tariff Area will neither be treated as supply of goods nor as supply of services.
 2. Section 17(5)(d) of CGST Act to be amended with retrospective effect from 1 July 2017 to replace the phrase 'plant or machinery' with 'plant and machinery'.
 3. **Taxability of vouchers:**
 - Section 12(4) and 13(4) of the CGST Act, dealing with time of supply in case of vouchers would be deleted. Further rule 32(6) of the Central Goods and Services Tax Rules, 2017 (CGST Rules), dealing with value of vouchers, would also be deleted.
 - Issuance of the following clarifications has been recommended by the GST Council:
 - Transaction in vouchers is neither treated as a supply of goods nor as a supply of services.
 - Distribution of vouchers on principal-to-principal basis shall not be subject to GST. In case of distribution of vouchers on principal-to-agent basis, the commission, fee or any other amount charged by the agent for such distribution would attract GST.
 - Services such as advertisement, co-branding, marketing and promotion, customization and technology support, customer support, etc. related to vouchers would attract GST.
 - Unredeemed vouchers (breakage) would not be considered as supply and no GST is leviable on income booked in respect of such breakage.
 4. Sections 107(6) and 112(8) of CGST Act to be amended to provide that payment of pre-deposit for filing an appeal against an order which involves only penalty in dispute will be 10% of the penalty amounts.
 5. Section 2(69) of CGST Act, defining the term 'local authority' will be amended to insert an Explanation to define the phrases 'Local Fund' and 'Municipal Fund' used in Section 2(69)(c) of CGST Act.
 6. **Amendment in Input Service Distributor (ISD) provisions (with effect from 1 April 2025):**
 - Sections 2(61) and 20(1) of CGST Act will be amended to explicitly include inter-state RCM transactions under the ISD mechanism by including reference to supplies subject to tax under Section 5(3) and 5(4) of the Integrated Goods and Services Tax Act, 2017 (IGST Act).
 - Consequent amendments have also been recommended to Section 20(2) of CGST Act and Rule 39(1) of CGST Rules.
 7. For evasion prone commodities, a track and trace mechanism is proposed to be introduced, based on a Unique Identification Marking to be affixed on the goods or the packages, helping to implement the mechanism throughout the supply chain. A new section 148A is proposed to be inserted in CGST Act to empower the Government to introduce such mechanism.
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8. In relation to the Invoice Management System (IMS) functionality, the GST Council has recommended to amend Sections 34, 38 and 39 of CGST Act and Rules 60, 61 of CGST Rules, apart from introducing rule 67B. The proposed amendments deal with providing legal framework with respect to form GSTR-2B, adjustment for Credit Notes by supplier and recipient and allowing to file form GSTR 3B only after submission of form GSTR 2B.
9. Rule 16A of the CGST Rules is proposed to be inserted to provide for a separate provision for generation of temporary identification number for persons who are not liable to be registered under CGST Act but are liable to make payment under Rule 87(4) of CGST Rules. Consequent amendments are also recommended to Rule 87(4) of CGST Rules and Form GST REG-12.

Changes relating to GST rates

1. Goods:

- GST rate on Fortified Rice Kernel (classifiable under HSN 1904) is reduced to 5%.
- Supply of food inputs of food preparations under HSN 19 or 21 that are supplied for food preparations, intended for free distribution to economically weaker sections under a Government program to be subject to GST @ 5%, subject to the existing conditions.
- GST rate on sale of all old and used vehicles, including Electric Vehicles, to be increased to 18%, where current rate is 12%
- GST Exemption will be provided/extended in respect of the following:
 - Import of all equipment and consumable samples by Inspection Team of the International Atomic Energy Agency (IAEA), subject to specified conditions
 - Gene therapy
 - Import of systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant for assembly or manufacture of Long-range Surface to Air Missile (LRSAM) system as per Notification 19/2019-Customs dated 6 July 2019.
- The term ‘pre-packaged and labelled’ defined in Notification Nos. 1 and 2/2017 - Central Tax (Rate) dated 28 June 2017 will be amended to cover all commodities that are intended for retail sale and containing not more than 25 kg or 25 litre, which are ‘pre-packed’ as defined under the Legal Metrology Act, or a label affixed thereto is required to bear the declarations under the provisions of the Act and rules.
- GST rate on Compensation Cess on supplies to Merchant Exporters to be reduced to 0.1%.

2. Services:

- GST on contributions made by the General Insurance Companies from the third-party motor vehicle premiums collected by them to the Motor Vehicle Accident Fund to be exempted.
- The concept of declared tariff to be done away with and rate of GST on restaurants in hotels (providing accommodation services) to be linked to ‘value of supply’ of accommodation services in previous financial year. Accordingly, GST would be levied in restaurants in such hotels @ 5% without input tax credit (ITC), except if value of supply for any unit of accommodation exceeded INR 7,500/- in the previous financial year. In such case, GST @ 18% would apply with ITC. Further, an option is available to charge GST @ 18% with ITC for restaurants in hotels, by giving a declaration on or before beginning of the financial year.

3. Amendments in applicability of Reverse Charge Mechanism (RCM):

- Sponsorship services provided by the body corporates will be brought under the Forward Charge Mechanism (earlier covered under RCM).
- Taxpayers registered under composition scheme would be excluded from payment of GST under RCM on renting of any commercial/immovable property (other than residential dwelling) from an unregistered person. For the past period, practice adopted by taxpayers will be regularized on ‘as-is-where-is’ basis for the period starting from 10 October 2024 till the date of issuance of the notification giving effect to the above amendment.

Clarifications recommended by GST Council

1. Autoclaved Aerated Concrete (ACC) blocks containing more than 50% fly ash content will fall under HS 6815, attracting GST @ 12%.
2. Pepper, whether fresh green or dried, and raisins, when supplied by an Agriculturist, is not leviable to GST.
3. Ready to eat popcorn mixed with salt and spices are classifiable under HSN 2106 90 99, attracting 5% GST if supplied as other than pre-packaged and labelled and attract GST @ 12% if supplied as pre-packaged and labelled. However, when popcorn is mixed with sugar, thereby changing its character to sugar confectionary (e.g. caramel popcorn), it would be classifiable under HS 1704 9090 and attract 18% GST. It has been decided to regularise the issues for the past on “as is where is” basis.
4. It is to be clarified that in case of ex-works contract, where goods are delivered by supplier to recipient / transporter at supplier’s place of business and property in goods is transferred to recipient at that point, the goods will be considered to be ‘received’ by recipient for the purposes of Section 16(2)(b) of CGST Act and the recipient can (subject to fulfilment of other conditions in Sections 16 and 17 of CGST Act) claim ITC on such goods.

5. Notification No. 12/2017 exempts services supplied by an acquiring bank in relation to settlement of an amount up to INR 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service. In this regard, it will be clarified that the above exemption would also be available to RBI regulated Payment Aggregators since they fall within the ambit of 'acquiring bank'. However, the said exemption will not cover Payment Gateway and other fintech services which do not involve settlement of funds.
 6. No GST is payable on the 'penal charges' levied and collected by banks and Non-Banking Financial Companies from borrowers for non-compliance with loan terms.
 7. Proportionate ITC reversal under Sections 17(1) or 17(2) of CGST Act is not required to be made by Electronic Commerce Operators (ECO), in respect of supplies for which ECOs are liable to pay tax under Section 9(5) of CGST Act.
 8. In respect of supply of 'Online Services' such as supply of online money gaming, Online Information and Database Access and Retrieval Services, etc. to unregistered recipients, the supplier is mandatorily required record the name of State of unregistered recipient on tax invoice and such State shall be deemed to be address on record of the recipient for the purpose of section 12(2)(b) of IGST Act, 2017 (dealing with determination of place of supply) read with proviso to rule 46(f) of CGST Rules, 2017 (dealing with disclosure of address of the recipient on the invoice).
 9. *Vide* Notification No. 3/2023-Compensation Cess (Rate) dated 26 July 2023, the scope of Sl. No. 52B of Notification No. 1/2017-Compensation Cess (Rate) dated 28 June 2017 (relating to rate of Cess on utility vehicles) was amended to clarify that ground clearance means ground clearance in unladen condition. The aforesaid amendment would apply with prospective effect from 26 July 2023.
- 10. Clarification on applicability of late fees:**
- Late fees under Section 47(2) of CGST Act is leviable for delay in filing the complete Annual Return i.e., Form GSTR-9 and FORM GSTR-9C, wherever applicable.
 - For the annual returns from FY 2017-18 to FY 2022-23, a notification under section 128 of CGST Act is recommended to be issued for waiver of late fees for delayed filing of FORM GSTR-9C, which is in excess of the amount of late fee payable till the date of filing of FORM GSTR-9, subject to filing of FORM GSTR-9C for these years by 31 March 2025.

Miscellaneous discussions in the GST Council meeting

1. **IGST Settlement Issues:** The Council approved recommendations from a committee of officers to address concerns raised by states regarding the settlement of IGST. This committee is expected to finalize the necessary changes by March 2025.
2. **GSTAT Internal Functioning:** The Council took note of proposed procedural rules for the functioning of GSTAT. These rules will be reviewed by Law Committee and subsequently notified, paving the way for the operationalization of the GSTAT.
3. **GST Compensation:** The Council extended the deadline for the GoM tasked with restructuring the GST Compensation mechanism till 30 June 2025.
4. **Natural Disasters:** The Council decided to form a GoM to examine legal and structural issues and recommend a uniform policy on imposition of an additional tax (such as Kerala Flood Cess) in the event of natural disaster/calamity in the State.

BDO Comments

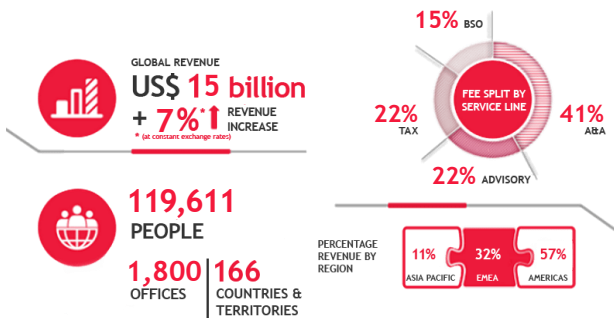
While the amendments/clarifications pertaining to the taxability of supply of goods warehoused in SEZs, supply of vouchers, simplification of GST rate on supplies made by Restaurant in a hotel, etc. are likely to be welcomed by the industry, the proposed retrospective amendment to Section 17(5)(d) of the CGST Act is not likely to be appreciated by the industry. This amendment directly contradicts the recent Supreme Court ruling in *Safari Retreats Pvt. Ltd. vs. Chief Commissioner of Central Goods and Services Tax [TS-622-SC-2024-GST]* and may potentially be subject matter of legal challenges to validity of such amendment.

The issues of rate rationalization as well as specific rates on various goods/services were also expected to be discussed but could not be discussed. The industry would now hope that in the extended period, the GoM tasked with rate rationalization would provide a road map of reduction in tax rate slabs, which would help in reducing the complexity in compliance. Further, while acknowledging the requirements of respective States to raise resources for various natural disasters, it also needs to be considered that the proposal to levy additional cesses/levies/taxes by a State would lead to complexities in the rate structure and would move GST away from promised 'one nation - one tax rate'. The industry would hope for adoption of any other alternate manner of fund raising by the States to meet the resource requirements for addressing such natural disasters.

[Source - Press Release dated 21 December 2024 (Release ID: 2086873). The exact language and effective date of the proposed amendments would be known from the amendment Act / Notification / Circular, as and when passed/issued and made effective]

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*Note: Financial results are as of 30 September 2023

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