



Recommendations of the 53rd GST Council Meeting held on 22 June 2024

The 53rd GST Council meeting was scheduled on 22 June 2024 in New Delhi. The gist of the recommendations made by the GST Council are summarised in the ensuing paragraphs¹.

▪ Recommendations relating to taxability and rates:

- Section 9 is proposed to be amended to exclude rectified spirit / Extra Neutral Alcohol (ENA) used for manufacture of alcoholic liquor for human consumption from the levy of GST. This is a consequential amendment to give effect to the decision taken in 52nd GST Council meeting to allow States to levy tax on ENA.
- Section 11A is proposed to be inserted, empowering the Government to regularize non-levy or short levy of GST, where tax was being short paid or not paid due to common trade practices.
- The following activities/transactions to be included in Schedule III to the CGST Act:
 - Co-insurance premium apportioned by lead insurer to the co-insurer for supply of insurance service to the insured in co-insurance agreements [Past cases may be regularized on 'as-is where-is' basis].
 - Transaction of ceding commission/re-insurance commission between insurer and re-insurer [Past cases may be regularized on 'as-is where-is' basis].
- **Following clarifications have been recommended by the GST Council:**
 - No GST is leviable on incentives shared by the Acquiring Bank with other stakeholders, where such sharing is defined under the 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.
 - Statutory collections by Real Estate Regulatory Authority (RERA) are exempt from GST as they fall within the scope of Sl. Nos. 4 of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017 (Exemption Notification) (i.e. an activity in relation to any function entrusted to a municipality under Article 243W of the Constitution of India).
 - GST liability on reinsurance services of specified insurance schemes (covered by Sl. Nos. 35 and 36 of Exemption Notification) may be regularized on 'as-is where-is' basis for the period from 1 July 2017 to 24 January 2018.
 - GST liability on reinsurance services of the insurance schemes for which total premium is paid by the Government that are covered under Sl. No. 40 of the Exemption Notification may be regularized on 'as-is where-is' basis for the period from 1 July 2017 to 26 July 2018.
 - Retrocession is 're-insurance of re-insurance' and hence, eligible for the exemption under Sl. No. 36A of the Exemption Notification (exempting services by way of reinsurance of specified insurance schemes covered by Sl. Nos. 35, 36 and 40 of the Exemption Notification).
 - Taxability of the following transactions:
 - Re-imbursalment of securities/shares such as ESOP/ESPP/RSU provided by a Company to its employees.
 - Wreck and salvage values in motor insurance claims.
 - Warranty/ Extended Warranty provided by Manufacturers to the end customers.
 - Loans granted between related person or between group companies.

¹ Editors Note: Unless otherwise specified, the Sections and the Rules referred to in this alert represents the provisions of the Central Goods and Services Tax Act, 2017 (CGST Act) and the Central Goods and Services Tax Rules, 2017 (CGST Rules) respectively.

▪ Recommendations relating to Input Tax Credit (ITC):

- **Section 16(4) to be amended with retrospective effect from 1 July 2017 to provide relaxations pertaining to the last date for claiming ITC:**
 - Last date for claiming ITC for FY 2017-18, FY 2018-19, FY 2019-20 and FY 2020-21 in respect of any invoice or debit note through any Form GSTR-3B filed up to 30 November 2021 will be deemed to be 30 November 2021.
 - Section 16(4) to be conditionally relaxed 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 registration, are filed by the registered person within thirty days of the order of revocation.
- Section 140(7) to be amended retrospectively with effect from 1 July 2017 to allow transitional credit on invoices pertaining to services provided before 1 July 2017 and where the invoices were received by the Input Service Distributor (ISD) before such date.
- In addition to the above, the following clarifications to be provided by the Government:
 - ITC is not restricted under Section 17(5)(c) and 17(5)(d) in respect of ducts and manhole used in network of Optical Fiber Cables (OFCs).
 - Time limit for claiming ITC on procurements made from unregistered persons where the recipient is liable to pay GST under the reverse charge mechanism and is liable to issue invoice, the time limit for availment of ITC for Section 16(4) would be the financial year in which the invoice has been issued by the recipient.
 - Requirement for reversal of input tax credit (ITC) in respect of the amount of premium in Life Insurance services which is not included in the value of taxable supply as per Rule 32(4) CGST Rules.
 - ITC eligibility on repair expenses incurred by insurance companies in case of reimbursement mode of settlement of motor vehicle insurance claims.

▪ Recommendations relating to valuation of supply:

- Rule 28(2), dealing with valuation of corporate guarantee to be amended (with retrospective effect from 26 October 2023) and a Circular to be issued to clarify various issues regarding valuation of services of providing corporate guarantees between related parties. Further, it is inter alia recommended that the valuation under Rule 28(2) would not apply in case of export of services and also where the recipient is eligible for full ITC.
- In respect of import of service by related persons, it is clarified that:
 - If the foreign affiliate provides services to the related domestic entity, who is eligible for full ITC, the value of supply of services declared in the invoice by the said related domestic entity may be deemed to be the Open Market Value (OMV) as per second proviso to Rule 28(1) of the CGST Rules.
 - Also, in cases where full ITC is available to the recipient and if the invoice is not issued by the related domestic entity with respect to such services, the value of such services may be deemed to be declared as Nil, and the same may be deemed to be the OMV as per second proviso to Rule 28(1) of CGST Rules.
- A clarification would be provided on mechanism for providing evidence by the suppliers for substantiating compliance of the conditions of Section 15(3)(b)(ii) in respect of post-sale discounts to the effect that ITC qua such discounts has been reversed by the recipient.

▪ Recommendations relating to zero-rated supply and refunds:

- Section 16 of the Integrated Goods and Services Tax Act, 2017 (IGST Act) and Section 54 of CGST Act would be amended to restrict refund in respect of goods which are subjected to export duty, irrespective of whether the said goods are exported (or are supplied to SEZ developer or SEZ unit for authorised operations) with or without payment of IGST.
- A mechanism for claiming refund of additional IGST paid on account of upward revision in price of the goods subsequent to their export to be prescribed.

▪ Recommendations relating to adjudication proceedings including demands pertaining to interest and penalty:

- **Adjudication including recovery of dues:**
 - A new section 74A is proposed to be inserted along with applicable amendments in section 73 and 74, to provide for a common time limit for issuance of demand notices and orders, irrespective of whether case involves fraud, suppression, wilful misstatement etc., or not. The proposed amendments would apply in respect of demands for FY 2024-25 onwards.
- **Interest and penalty:**
 - Rule 88B to be amended to provide that the amount available in Electronic Cash Ledger on the due date of filing Form GSTR-3B return which is debited while filing the said return, shall not be included while calculating interest under Section 50 of the CGST Act for delayed filing of such return.
 - Section 122(1B) to be amended with retrospective effect from 1 October 2023 to provide that the penal provision would apply only to those e-commerce operators (ECO), who are required to collect tax under section 52 of CGST Act, and not for other ECOs.

- A new section 128A is proposed to be inserted to provide for conditional waiver of interest and/or penalty for demand notices issued under Section 73 (i.e. without allegation of fraud, suppression, etc.) for FY 2017-18, FY 2018-19 and FY 2019-20 in cases where the taxpayer pays the full amount of tax demanded in the notice up to 31 March 2025. The waiver would not apply to demand of erroneous refunds.
- The time limit for availing the benefit of reduced penalty, by paying the tax demanded along with interest is recommended to be increased from 30 days to 60 days under the proposed section 74A.

▪ Appellate proceedings:

- Section 107 to be amended to reduce the maximum amount of pre-deposit for filing appeal before the first Appellate Authority from '*INR 0.25 Bn. for CGST and INR 0.25 Bn. for SGST*' to '*INR 0.20 Bn. for CGST and INR 0.20 Bn. for SGST*'.
- Section 112 to be amended as under:
 - The amount of pre-deposit for filing appeal with the GST Appellate Tribunal (GSTAT) to be reduced from 20% (subject to the maximum amount of INR 0.50 Bn. CGST and INR 0.50 Bn. SGST) to 10% (subject to the maximum amount of INR 0.20 Bn. CGST and INR 0.20 crores SGST).
 - To allow the three-month period for filing appeals before the GST Appellate Tribunal (GSTAT) to start from a date to be notified by the Government in respect of appeal/ revision orders passed before the date of such notification.
- Section 171 to be amended to provide for a sunset clause for anti-profiteering under the GST law. Further, Section 109 to be amended to provide for handling of anti-profiteering cases by the Principal Bench of the GST Appellate Tribunal. The sunset clause for receipt of new application regarding anti-profiteering is recommended to be **1 April 2025**.
- The monetary limits (subject to certain exclusions) for filing of appeals by the tax authorities before the GSTAT, High Court and Supreme Court would be INR 2 Mn., INR 10 Mn. and INR 20 Mn. respectively.
- Rule 142 to be amended, along with issuance of a clarificatory 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.

▪ GST rates changes / exemptions:

- **GST rates reductions on goods:**

Sl. No.	Particulars	GST rate
1.	Imports of 'Parts, components, testing equipment, tools and toolkits of aircrafts', irrespective of their HS classification to provide a fillip to MRO activities, subject to specified conditions.	5%
2.	All milk cans (of steel, iron and aluminium) irrespective of their use	12%
3.	Carton, boxes and cases of both corrugated and non-corrugated paper or paper-board (HSN 4819 10 and 4819 20)	12%
4.	All solar cookers, whether single or dual energy source	12%
5.	Parts of Poultry keeping Machinery [Past practice to be regularized on 'as-is where-is' basis in view of genuine interpretational issue]	12%
6.	All types of sprinklers including fire water sprinklers [Past practice to be regularized on 'as-is where-is' basis in view of genuine interpretational issue]	12%

- Exemptions have been provided in respect of the following goods/ services:

Sl. No.	Particulars
1.	GST Compensation Cess on imports in SEZ by SEZ Unit / SEZ developers for authorised operations with retrospective effect from 1 July 2017
2.	GST Compensation cess on supply of aerated beverages and energy drinks to authorised customers by Unit Run Canteens under Ministry of Defence
3.	Adhoc IGST exemption is granted on technical documentation for AK-203 rifle kits imported for Indian Defence forces
4.	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. Further, intra-railway transactions are also exempted. [The issue for the past period will be regularized on as is basis for the period from 20 October 2023 till the date of issue of notification]
5.	Services provided by Special Purpose Vehicles (SPV) to Indian Railway by way of allowing Indian Railway to use infrastructure built and owned by the SPV during the concession period and maintenance services supplied by Indian Railways to SPV. [The issue for the past period will be regularized on 'as-is where-is' basis from 1 July 2017].
6.	Accommodation services (falling under HSN 9963) having the value of supply of accommodation up to INR 20,000 per month per person, subject to the condition that the accommodation service is supplied for a minimum continuous period of 90 days. Similar benefit to be provided for past cases.

- In addition to the above, the IGST exemption on imports of specified items for defence forces is proposed to be extended for a further period of five years till 30 June 2029.
- Exemption to research equipment/buoys imported under the Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction (RAMA) programme is extended, subject to specified conditions

▪ **Other clarifications recommended by the GST Council:**

- Following clarifications have been recommended to be issued by the GST Council:
 - Place of supply of Custodial services supplied by Indian Banks to Foreign Portfolio Investors to be determined as per Section 13(2) of the IGST Act, i.e., basis the location of the recipient.
 - On determination of place of supply of goods supplied to unregistered persons, where delivery address is different from the billing address.
 - Determination of time of supply on Annuity Payments under Hybrid-Annuity-Model (HAM) Projects.
 - Determination of time of supply in respect of allotment of Spectrum to Telecom companies where payment of licence fee and Spectrum usage charges is to be made in instalments.
 - Issues pertaining to special procedure for the manufacturers of the specified commodities such as pan masala and tobacco etc.

▪ **Miscellaneous recommendations including trade facilitation measures:**

- Introduction of a new optional facility by way of FORM GSTR-1A to facilitate taxpayers to amend FORM GSTR-1 for a tax period and/ or to declare additional details, before filing of monthly return in FORM GSTR-3B for the said tax period.
- Filing of annual return in FORM GSTR-9/9A for the FY 2023-24 to be exempted for taxpayers having aggregate annual turnover of up to INR 20 Mn.
- For FY 2024-25 onwards, the due date for filing Form GSTR-4 (for composition taxpayers) will be 30 June following the end of the financial year (earlier 30 April).
- It is clarified that Form GSTR-7 is required to be filed by registered persons (liable to deduct tax at source under Section 51) irrespective of whether or not such person has deducted tax during the tax period. Further, no late fee would be payable for delayed filing of Nil Form GSTR-7 return. The Council has also recommended that invoice-wise details may be required to be furnished in Form GSTR-7 return.

- Rate of Tax Collection at Source by ECOs to be reduced to 0.5% (0.25% CGST + 0.25% SGST/UTGST or 0.5% IGST) from 1% (0.5% CGST + 0.5% SGST/ UTGST or 1% IGST).
- Biometric based Aadhaar authentication of registration applicants to be rolled out on a PAN-India basis in a phased manner.
- Threshold for invoice-wise reporting of B2C inter-state supplies in Table 5 of Form GSTR-1 to be reduced from INR 0.25 Mn. to INR 0.10 Mn.

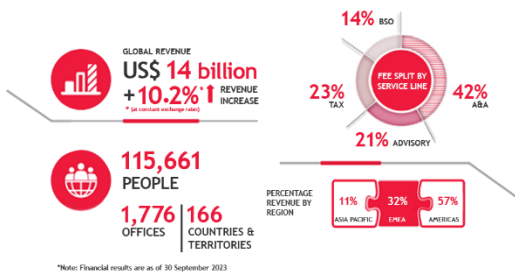
BDO Comments

The recommendations made by the GST Council re-emphasises its focus on the simplification of operational issues and reduction in litigations by clarifying various industry issues. Some of the decisions taken by the GST Council to grant relief for the initial period of introduction of GST such as extension of period of claiming ITC for initial years or waiver of interest and penalty where tax is paid in cases not involving fraud, etc. shows willingness to support *bonafide* taxpayers and avoid litigations. The clarifications relating to corporate guarantee would be keenly awaited by the industry, considering the lack of clarity on various aspects in the amendments brought previously. Lastly, multiple clarifications to be issued for issues faced by the insurance sector would bring in clarity and put an end to number of ongoing investigations / litigations, involving significant amounts of demands.

[Source: Press Release dated 22 June 2024 and statements made in the press conference by the Hon'ble FM and the officials. The exact language and effective date of the proposed amendments would be known from the amendment Act / Notification / Circular, as and when issued and made effective]

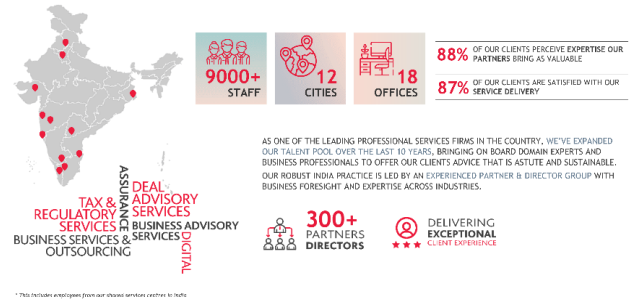
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