



An update on 53rd GST Council Meeting held on 22 June, 2024

Related to changes in tax rate

Related to goods

- All milk cans (of steel, iron and aluminum) irrespective of their use will attract 12% GST. Further, GST rate on 'carton, boxes and cases of both corrugated and non-corrugated paper or paper-board' to be reduced from 18% to 12%.
- All solar cookers whether single or dual energy source, will attract 12% GST.
- To exempt Compensation Cess on the imports in SEZ-by-SEZ Unit / developers for authorized operations w.e.f. 01.07.2017.
- To exempt services (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) provided by Indian Railways to general public.
- To create a separate entry in the notification No. 12/2017- CTR 28.06.2017 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.

Related to services

- 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.
- To issue a clarification that retrocession is 're-insurance of re-insurance' and therefore, eligible for the exemption under Sr. No. 36A of the notification No. 12/2017-CTR dated 28.06.2017.

OUR COMMENTS: *The Council has heard the plight of the insurance industry and provided the above recommendations which will provide a much needed relief to the Companies operating in this sector. It is likely that the entire dispute on applicability of GST on re-insurance and co-insurance will go away. It has also been recommended to regularise past transactions on as-is basis.*

Recommendations for litigation under GST Law

- Recommended to prescribe monetary limits for filing of appeals by the Department before the GST Appellate Tribunal, High Court, and Supreme Court – for GSTAT, INR 20 Lakhs, for High Court – INR 1 Crore and for Supreme Court – INR 2 Crore.
- Recommended reducing the amount of pre-deposit for filing of appeals under GST. The maximum amount for filing appeal with the appellate authority has been reduced 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 reduced from 20% with 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.
- Recommended amendment in rule 142 of CGST Rules 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.
- Recommended amendment in Section 171 and Section 109 of CGST Act to provide a sunset clause for anti - profiteering and to provide for handling of anti - profiteering cases by Principal bench of GST Appellate Tribunal (GSTAT). Also recommended that the sun-set date of 01.04.2025 for receipt of any new application regarding anti - profiteering.



- For filing of appeal before GSTAT, it was recommended that Section 112 of the CGST Act, 2017 and the appeal be filed within a period of three-month from a date to be notified by the Government.

OUR COMMENTS: *The Council has prescribed a monetary limit for filing of appeal by the Department before GSTAT, High Courts and Supreme Court, this recommendation is in light of a similar policy which was adopted in the erstwhile regime. This will reduce litigation wherever the disputed amount is not significant and will also lower the burden on courts. Further, it is recommended that the amount of pre-deposit be reduced for filing of appeals which will help the businesses to maintain their cash flow. A circular is sought to be issued to prescribe a mechanism for adjustment of pre-deposit amount through FORM GST DRC-03 against the amount to be paid as pre-deposit for filing appeal. Recommendations were made to provide for a sun-set date for receiving any new applications with respect to the anti – profiteering. Also, recommendations were made that the anti – profiteering matters be heard by the principal bench of GST Appellate Tribunal. On 06.05.2024, the President of GSTAT was appointed and the time limit for filing an appeal before GSTAT started on the said date. However, it is now recommended that the limitation will start from the date which will be notified by the Government.*

Recommendations for making substantive changes to GST Law

- Recommended insertion of Section 128A in CGST Act to allow waiver of 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 benefit will not be extended to the demand of erroneous refunds.
- Recommended amendment in Section 9(1) of the CGST Act, 2017 for not levying GST on Extra Neutral Alcohol (ENA) used for manufacture of alcoholic liquor for human consumption.
- Recommended inserting a new Section 11A in CGST Act to give powers to the Government, on the recommendations of the Council, to allow regularization of non-levy or short levy of GST, where tax was being short paid or not paid due to common trade practices.
- Recommended make retrospective amendment to Section 16(4) of the CGST Act so that:
 - the time limit is extended for availing ITC pertaining to FY 2017-18 to FY 2020-21 to 30.11.2021 November 30, 2021.
 - benefit of ITC is allowed for the period between cancellation and revocation of registration to the taxpayers who has

filed all the return for the said period within 30 days from the date of revocation of registration.

- Recommended to provide for a common time limit for cases issuance of demand notices and orders in respect of demands for FY 2024-25 onwards for cases falling under Section 73 and 74 of the CGST Act. This will be done by insertion of new provision Section 74A in the CGST Act. Also, the time limit for the taxpayers to avail the benefit of reduced penalty, by paying the tax demanded along with interest, has been recommended to be increased from 30 days to 60 days.
- Recommended amendment in Section 140(7) of CGST Act 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.
- Recommended amendment of 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.
- Recommended providing 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.
- Recommended amendment in Rule 88B of CGST Rules to provide that an amount, which is available in the Electronic Cash Ledger on the due date of filing of return in FORM GSTR-3B, and is debited while filing the said return, shall not be included while calculating interest under section 50 of the CGST Act in respect of delayed filing of the said return.

OUR COMMENTS: *Recommendation is made to provide relief in cases where order / show cause notice has been issued under Section 73 of the CGST Act only. The cases where demand pertains to erroneous refund have been kept out of the purview of this relief. This amnesty scheme will provide a significant relief to the Assesseees and will also reduce litigation. It is important to note that the benefit is available in cases where the entire tax demand is paid on or before 31.03.2025. However, if the amount of interest and penalty is already paid, it is unlikely that any refund will be granted by the Department. Further, the taxpayers whose registrations were cancelled were facing challenges to avail ITC within prescribed time limit due to their registrations being inactive. A retrospective amendment to allow ITC to such taxpayers is a welcome step. Further, the recommendation of insertion of Section 74A in the CGST Act, will bring all the cases at par with each other and the Assesseees may*



be adversely affected. However, the true meaning of this recommendation will be clear once the amendments and insertions are proposed by the legislature. Further, a chance to rectify mistakes is being provided to taxpayers wherein any errors made in GSTR 1 can be rectified before filing of GSTR 3B. The Council has also recommended to amend the Rule 88B of the CGST Rules and vide this recommendation, it is sought to be provided that if the taxpayer has balance lying in ECL, the same shall be reduced while computing interest.

Recommendations for facilitation of trade

- Recommended reduction in TCS rate from 1% to 0.5 % which the Electronic Commerce Operators (ECOs) are required to collect on net taxable supplies under Section 52(1) of the CGST Act.
- Recommended for issuance of clarifications on various issues to trade and tax officers and to reduce litigation. There are 11 issues mentioned in Sr. No. of the press release.
- Recommended to prescribe a mechanism for claiming refund of additional IGST paid on account of upward revision in price of the goods subsequent to their export.
- 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. However, if the invoice is not issued by the related domestic entity, 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.

- Further, Annual Return in Form GSTR – 9 / 9A for the FY 2023 - 24 may be exempted for taxpayers having aggregate annual turnover upto INR 2 Crores.
- Recommended to roll-out the biometric-based Aadhaar authentication of registration applicants on pan-India basis in a phased manner.

OUR COMMENTS: Clarification on various issues is sought to provide clarity to trade and tax officers and to reduce litigation. These issues include taxability of re-imbursement of securities / shares provided by the Company to its employees, taxability of wreck and salvage values in motor insurance claims, taxability of loans granted between related person or between group companies, availability of ITC on repair expenses incurred by the insurance companies in case of reimbursement mode of settlement of motor vehicle insurance claims on mechanism for providing evidence by the suppliers for compliance of the conditions of Section 15(3)(b)(ii) of the CGST Act etc. All these issues are recurring issues for many Assesseees and issuance of a clarification is expected to bring much needed relief. Any import of service without consideration from a related party shall be considered as a supply within the meaning of the same u/s 7 of the CGST Act, 2017 and the same shall be taxable. This clause was proving to be the basis of litigation as the authorities were not agreeing with the value ascribed by the taxpayers in such cases. The Council has simplified the valuation mechanism by taking the declared value as the OMV when the recipient is eligible to claim ITC. Roll out of the biometric bases Aadhaar authentication for registration on pan – India basis will strengthen ease of doing business and also tackle the issue of fake invoicing.

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