



P CHHAJED & CO LLP

CHARTERED ACCOUNTANTS

Decisions taken in the 53rd GST Council Meeting

- * The 53rd Meeting of GST Council was held on 22nd June, 2024.
- * The recommendations of the 53rd GST Council Meeting is presented herewith.
- * The recommendations will be effective from the date when it will be notified.
- * The 53rd GST Council meeting may be termed as the meeting for the benefit of taxpayers.

Measures for facilitation of trade:

Insertion of Section 128A in CGST Act, to provide for conditional waiver of interest or penalty or both

- A new section 128A will be inserted in GST Act.
- GST council has noted a fact that during the initial years of GST, the taxpayers faced many difficulties.
- Thus, it recommends waiving interest and penalties for demand notices issued under Section 73 of the CGST Act, in cases where the taxpayer pays the full amount of tax demanded in the notice up to 31.03.2025.
- The said waiver will be applicable for the financial years 2017-18, 2018-19 and 2019-20.
- Detailed conditions will be specified for the same.
- Further, the waiver does not cover demand of erroneous refunds.

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.
- Thus, the existing rate of TCS @ 1% (0.5% CGST + 0.5% SGST / UTGST or 1% IGST) will be replaced by 0.5% (0.25% CGST + 0.25% SGST/UTGST, or 0.5% IGST).

Relaxation in condition of section 16(4) of the CGST Act – Time limit to claim ITC

(a) In respect of initial years of implementation of GST, i.e., financial years 2017-18, 2018-19, 2019-20 and 2020-21:

- Recently, we shared the analysis of a case law viz. M/S M. TRADE LINKS & Ors. v. UNION OF INDIA & Ors., WP(C) NO. 31559 OF 2019, Kerala HC, wherein the Hon'ble HC noted that the amendment made by Finance Act, 2022 w.e.f 01.10.22 enabling the last date to claim the ITC as per Sec 16(4) from due date of September month GSTR 3B to 30th November being the procedural issue has to be given retrospective effect and, therefore, it is provided that it should be treated that the time limit for furnishing the return for the month of September is 30th November in each Financial Year with effect from 01.07.2017, considering the peculiar nature of difficulties in the initial period of implementation of the GST regime.
- In line of the same, the 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 up to 30.11.2021 for the financial years 2017- 18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30.11.2021.

Relaxation in condition of section 16(4) of the CGST Act – Time limit to claim ITC

(b) with respect to cases where returns have been filed after revocation:

- Many a times, taxpayers were facing a situation wherein the GSTIN has been suspended / cancellation. Against which, a revocation application is to be filed and after which the number will be made active again.
- The entire process may be a time consuming process and thus it was leading to blocking of ITC due to time limit of Section 16(4) to many of the taxpayers.
- With respect to the same, the GST Council recommended to conditionally relax the provisions of section 16(4) of CGST Act 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 30 days of the order of revocation.
- This amendment will be made retrospective in nature i.e. to be made effective from July 1 , 2017.

Time Limit u/s 16(4) for taking ITC of RCM

- The Council recommended 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.
- In our humble view, the payment of tax under RCM through cash ledger and claiming it back as an ITC is just increasing the compliance for the taxpayers and thus, the taxpayers who are eligible for full ITC with respect to such RCM tax should be exempted from RCM provision as it is only a revenue neutral effect.

Interest u/s 50 on delayed filing of returns, in cases where the credit is available in Cash Ledger (ECL) on the due date of filing the said return:

- Presently, Section 50 calculates interest on delayed filing of returns as the difference between the date of filing of return and the due date of the return as the liability will be deemed to be paid on the time of its debit in the Electronic Cash Ledger.
- However, in many cases there was delay in filing of return due to technical reasons and thus even though the taxes were being paid in time, there was unnecessary levy of interest.
- Or many a times, large corporations pays the taxes in parts i.e. as and when balance is there, it is transferred to ECL and once all the liabilities are paid, the GSTR 3B will be filed. In this case also, the interest liability gets triggered from the due date of filing till the date of filing but it will not consider the liability which is already deposited in ECL before the date of filing.
- Therefore, the GST Council 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.

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

- The GST Council, in its 52nd 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 now recommended amendment in sub-section (1) of Section 9 of the CGST Act, 2017 for not levying GST on Extra Neutral Alcohol used for manufacture of alcoholic liquor for human consumption.

Others - 1

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

Others - 2

- The Council 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.
- Amendment was recommended to be made in section 122(1B) of CGST Act 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 of CGST Act, and not for other e-commerce operators.
- Amendment was recommended to be made in section 122(1B) of CGST Act 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 of CGST Act, and not for other e-commerce operators.

Relaxations relating to filing of returns:

Form GSTR 1A – Facility to amend GSTR 1

- Presently, there is no facility to amend either GSTR 1 or GSTR 3B. Because of which the taxpayer is required to report any omission or mistake therein in the subsequent return.
- Further, there may be instances wherein due to omission or mistake in filing of GSTR 1, the recipient is facing the difficulty in claiming the ITC.
- Thus, it was a widespread demand to introduce the facility which may resolve the above issues.
- In lieu of the same, the council has recommended the optional facility of GSTR 1A to facilitate the taxpayers to amend the details in FORM GSTR-1 / IFF 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.
- This is a welcome step but still it hasn't solved the problem completely wherein there will be difficulty in claiming the ITC for the recipient in case the supplier has filed the GSTR 1 belatedly or already filed his GSTR 3B before he is in receipt of any missing or incorrect information from his customers.

Change in due date of GSTR 4

- GSTR 4 is a kind of annual return for the composite taxpayers.
- It is required to be filed within a period of 30 days from the closure of the financial year i.e. 30th April succeeding the financial year.
- The time limit of 30 days was really a short time to compile the data and that too for the composition taxpayers who are generally treated small taxpayers with very less tax compliance.
- Thus, it is recommended that from FY 24-25 onwards, the law will be amended to change the due date to 30th June instead of 30th April.

Exemption for filing of GSTR 9 / 9A for FY 2023-24

- The Council recommended that filing of annual return in FORM GSTR-9/9A for the FY 2023-24 may be exempted for taxpayers having aggregate annual turnover up to ₹ 2 crore.

Reporting of B2C inter-State supplies in Form GSTR 1

- The threshold for reporting of B2C inter-State supplies invoice-wise in Table 5 of FORM GSTR-1 was recommended to be reduced from Rs 2.5 Lakh to Rs 1 Lakh.

Mandatory Filing of GSTR 7

- The Council recommended that return in FORM GSTR-7, to be filed by the registered persons who are required to deduct tax at source under section 51 of CGST Act, is to be filed every month irrespective of whether any tax has been deducted during the said month or not. It has also been recommended that no late fee may be payable for delayed filing of Nil FORM GSTR-7 return.
- Further, it has been recommended that invoice-wise details may be required to be furnished in the said FORM GSTR-7 return.

Recommendations relating to
adjudication, filing of an appeal
and related matters:

Pre Deposit while filing an appeal paid through Form DRC 03.

- While filing an appeal to the first appellate authority, a pre-deposit of 10% of the disputed tax amount is required to be paid at the time of filing an appeal.
- As the GST law is new and the filing of an appeal may be first time for the taxpayers and thus many a times, due to inadvertent error, the pre-deposit of tax is paid separately through Form DRC 03 before filing of an appeal instead of making payment simultaneously at the time of filing of an appeal through the appeal filing window.
- Thus, the Council 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.

Pre Deposit while filing an appeal to the first appellate authority or to the Tribunal.

Appeal Before	Present Limit		Revised Limit	
	In %	Maximum Amount	In %	Maximum Amount
First appellate authority	10%	₹ 25 Cr for CGST and ₹ 25 Cr for SGST	10% (No Change)	₹ 20 Cr for CGST and ₹ 20 Cr for SGST
Appellate Tribunal	Additional 20%	₹ 50 Cr for CGST and ₹ 50 Cr for SGST	Additional 10%	₹ 20 Cr for CGST and ₹ 20 Cr for SGST

Common time limit for issuance of demand notices and orders u/s 73 and 74.

- Section 73 and 74 deals with the determination of the liability on account of various reasons including tax not paid, short paid, refund erroneously taken etc. wherein the later section applies for the cases due to reason of fraud, wilful misstatement and suppression of facts while the former applies in normal cases.
- Presently there is different time limit for issuance of notice and order u/s 73 and 74.
- In order to simplify the implementation of those provisions, the GST Council recommended to provide for a common time limit for issuance of demand notices and orders in respect of demands for FY 2024-25 onwards.

Time limit to avail the benefit of reduced penalty by paying tax along with interest in the adjudication process of Section 73 and 74.

- Section 73(8) states that if the taxpayer pays the tax along with interest **within thirty days** of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.
- Section 74(8) states that if the taxpayer pays the tax along with interest and a penalty equivalent to 25% of such tax **within thirty days** of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.
- It is recommended by the council that 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.

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: ₹ 20 lakhs
 - High Court: ₹ 1 crore
 - Supreme Court: ₹ 2 crores

Time limit for filing an appeal in GST Appellate Tribunal (GSTAT).

- The GST Council recommended amending 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.

Anti-profiteering

- The Council recommended 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).
- Further, the Council has also recommended the sun-set date of 01.04.2025 for receipt of any new application regarding anti-profiteering.

Measures pertaining to Law and Procedures:

Rolling out of bio-metric based Aadhaar authentication on All-India basis.

- The biometric-based authentication was discussed at the third National Co-ordination Meeting of senior Central and State GST officers.
- Currently, two states, Gujarat and Andhra Pradesh, and the Union Territory of Puducherry have launched the Aadhaar authentication of taxpayers on a pilot basis.
- The GST Council recommended to roll-out the biometric-based Aadhaar authentication of registration applicants on pan-India basis in a phased manner. This will strengthen the registration process in GST and will help in combating fraudulent input tax credit (ITC) claims made through fake invoices.

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

- The Council recommended amendments in section 16 of IGST Act and section 54 of CGST Act to provide that the refund in respect of goods, which are subjected to export duty, is restricted, 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.

Valuation Rules:

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

- GST Council 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. 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.

GST clarifications related to insurance sector:

GST Clarifications related to Insurance Sector

- 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
- 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.
- 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-CTR 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

GST on Hostel / PF accomodation:

Rrecommendation for Hostel / PG Accommodation

- From inception of GST till 17th July 2022, the services of hostel / PG accommodation were exempt in nature.
- Later on, it was amended to make it taxable.
- However, it has created difficulty for the students and working professionals as there will be extra burden of GST.
- Thus, it is recommended to create a separate entry in notification No. 12/2017- CTR 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.

GST rates on goods and services:

GST Rates on goods and services - 1

- A uniform rate of 5% will apply on Imports of 'Parts, components, testing equipment, tools and tool-kits of aircrafts, irrespective of their HS classification to provide a fillip to MRO activities subject to specified conditions
- All milk cans (of steel, iron and aluminium) irrespective of their use will attract 12% GST.
- GST rate on 'carton, boxes and cases of both corrugated and non-corrugated paper or paper-board' (HS 4819 10; 4819 20) to be reduced from 18% to 12%.
- All solar cookers whether single or dual energy source, will attract 12% GST.
- To amend existing entry covering Poultry keeping Machinery attracting 12% GST to specifically incorporate "parts of Poultry keeping Machinery".
- All types of sprinklers including fire water sprinklers will attract 12%

GST Rates on goods and services - 2

- To extend IGST exemption on imports of specified items for defence forces till 30th June, 2029.
- 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.
- To exempt Compensation Cess on the imports in SEZ by SEZ Unit/developers for authorised operations w.e.f. 01.07.2017.
- To exempt Compensation cess on supply of aerated beverages and energy drinks to authorised customers by Unit Run Canteens under Ministry of Defence.
- To provide Adhoc IGST exemption on imports of technical documentation for AK-203 rifle kits imported for Indian Defence forces.

GST Rates on goods and services - 3

- 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.
- 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.

GST Rates on goods and services - 4

- 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 define 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.

Thank you !!

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