

GST Alert 01/2024-25

Date 23.06.2024

Changes Announced by GST Council

The 53rd GST Council Meeting held on 22.06.2024, has made several recommendations on GST related matters, most of them are being recommended to ease compliance pressures on the taxpayers.

Please note that these are mere recommendations and have not become law as yet, these will be implemented in phases because these changes need to be notified either through amendment in law or issuance of notifications or issuance of circulars.

Here is a breakdown of these recommendations:

Summary:

- Amnesty Scheme is being brought for the first time in GST whereby Interest and Penalties for demand notices issued under Section 73 of the CGST Act (non-fraud cases) for FY 2017-18, 2018-19, and 2019-20 will be full waived if full tax is paid by 31.03.2025.
- Time limit to avail input tax credit for invoices or debit notes under Section 16(4) of the CGST Act for FY 2017-18, 2018-19, 2019-20, and 2020-21 deemed to be 30.11.2021.
- Monetary limits for filing appeals by the Department set at Rs. 20 lakh for GST Appellate Tribunal, Rs. 1 crore for High Court, and Rs. 2 crore for Supreme Court to reduce litigation.
- Reduction in the quantum of pre-deposit required for filing appeals under GST.
- Amend CGST Act to start the three-month period for filing appeals in the GST Appellate Tribunal from a date to be notified by the Government.
- No interest under Section 50 of CGST Act for delayed return filing on amounts available in the Electronic Cash Ledger on the due date.



- Sunset clause from April 1st, 2025 for receiving new applications for Anti-profiteering.
- Exemption from Compensation Cess on imports in SEZ-by-SEZ Unit/developer for authorized operations from 1st July, 2017.
- 12% GST on milk cans (steel, iron, aluminum), cartons, boxes, and cases of both corrugated and non-corrugated paper or paperboard; solar cookers (single or dual energy source); and sprinklers including fire water sprinklers.
- Exemptions for certain services provided by Indian Railways to the public and intra-railway supplies.
- Exemptions related to accommodation services, providing relief to students and working professionals.
- Roll-out of biometric-based Aadhaar authentication for registration applicants nationwide in a phased manner.

I. Changes in GST rate on Goods

A. Uniform IGST Rate for Aircraft Parts

Uniform rate of 5% IGST will apply to imports of parts, components, testing equipment, tools, and tool-kits of aircrafts, irrespective of their HS classification, to boost MRO activities, subject to specified conditions.

B. GST on Milk Cans

All milk cans (made of steel, iron, or aluminum) will attract 12% GST, regardless of their use.

C. GST Reduction for Cartons and Boxes

GST rate on cartons, boxes, and cases of both corrugated and non-corrugated paper or paperboard (HS 4819 10; 4819 20) will be reduced from 18% to 12%.



D. GST on Solar Cookers

All solar cookers, whether single or dual energy source, will attract 12% GST.

E. GST on Poultry Keeping Machinery Parts

The existing entry covering poultry keeping machinery attracting 12% GST will be amended to specifically incorporate "parts of poultry keeping machinery" and regularize past practice on an 'as is where is' basis due to genuine interpretational issues.

F. GST on Sprinklers

All types of sprinklers, including fire water sprinklers, will attract 12% GST. Past practice will be regularized on an 'as is where is' basis due to genuine interpretational issues.

G. IGST Exemption for Defence Imports

IGST exemption on imports of specified items for defence forces will be extended for an additional five years, until 30th June, 2029.

H. IGST Exemption for Research Equipment

IGST exemption on imports of research equipment/buoys imported under the Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction (RAMA) programme will be extended, subject to specified conditions.

I. Compensation Cess Exemption for SEZ Imports

Compensation Cess on imports into SEZ by SEZ Units/developers for authorized operations will be exempted effective from 1st July, 2017.

J. Other Miscellaneous Changes

To exempt Compensation cess on supply of aerated beverages and energy drinks to authorised customers by Unit Run Canteens under Ministry of Defense.



To provide Adhoc IGST exemption on imports of technical documentation for AK-203 rifle kits imported for Indian Defense forces.

II. Changes in Taxation of Services

A. Exemption for Indian Railways Services

Services provided by Indian Railways to the general public, including the sale of platform tickets, retiring rooms/waiting rooms, cloak room services, and battery-operated car services, will be exempt from GST. Intra-Railway transactions will also be exempt. This exemption will be regularized for the period from 20.10.2023 until the issuance of the exemption notification.

B. GST Exemption for SPV Services to Indian Railways

GST will be exempt on services provided by Special Purpose Vehicles (SPV) to Indian Railways, allowing the use of SPV-built infrastructure during the concession period and maintenance services supplied by Indian Railways to SPV. This exemption will be regularized on an 'as is where is' basis for the period from 01.07.2017 until the issuance of the exemption notification.

C. Exemption for Hostel Services

A much wanted change is being made, whereby hostel services are being exempt. Hostel rooms with a value of up to Rs. 20,000 per month per person will be exempt from levy of GST, provided the service is supplied for a minimum continuous period of 90 days.

A separate entry will be created in notification No. 12/2017-CTR dated 28.06.2017 under heading 9963 to bring the above change.

Similar benefits will be extended for past cases.



D. Other changes relating to Services

a. Co-Insurance Premium

The co-insurance premium apportioned by the lead insurer to the co-insurer in co-insurance agreements will be declared as no supply under Schedule III of the CGST Act, 2017. Past cases will be regularized on an 'as is where is' basis.

b. Ceding and Re-Insurance Commission

Transactions involving ceding commission/re-insurance commission between the insurer and the re-insurer will be declared as no supply under Schedule III of the CGST Act, 2017. Past cases will be regularized on an 'as is where is' basis.

c. Reinsurance Services of Specified Insurance Schemes

GST liability on reinsurance services for specified insurance schemes covered by Sr. Nos. 35 & 36 of notification No. 12/2017-CT (Rate) dated 28.06.2017 will be regularized on an 'as is where is' basis for the period from 01.07.2017 to 24.01.2018.

d. Government-Paid Insurance Schemes

GST liability on reinsurance services for insurance schemes where the total premium is paid by the Government, covered under Sr. No. 40 of notification No. 12/2017-CTR dated 28.06.2017, will be regularized on an 'as is where is' basis for the period from 01.07.2017 to 26.07.2018.

e. Retrocession Clarification

A clarification will be issued that retrocession, which is the re-insurance of re-insurance, is eligible for exemption under Sl. No. 36A of notification No. 12/2017-CTR dated 28.06.2017.

f. RERA Statutory Collections

A clarification will be issued that statutory collections made by the Real Estate Regulatory



Authority (RERA) are exempt from GST, as they fall within the scope of entry 4 of notification No. 12/2017-CTR dated 28.06.2017.

g. Incentive Sharing for RuPay and BHIM-UPI Transactions

A clarification will be issued that further sharing of incentives by the acquiring bank with other stakeholders, as defined under the incentive scheme for the promotion of RuPay Debit Cards and low-value BHIM-UPI transactions, and decided by NPCI in consultation with participating banks, is not taxable.

III. Legal Changes

A. Amendments to Sections 73 and 74 of CGST Act and Introduction of Section 74A

a. Unified Time Limit for Demand Notices and Orders

Currently, there are different time limits for issuing demand notices and orders based on whether fraud, suppression, willful misstatement, etc., are involved. For cases involving element of fraud, suppression etc, currently demand notices can be issued within 5 years of due of relevant years annual return. For other cases the time limit is 3 years from due of relevant years annual return.

To simplify the implementation of these provisions, the GST Council recommended a common time limit for issuing demand notices and orders for demands from FY 2024-25 onwards, regardless of fraud or willful misstatement charges.

b. Extension of Time for Reduced Penalty

The time limit for taxpayers to avail the benefit of reduced penalty by paying the tax demanded along with interest is recommended to be extended from 30 days to 60 days.



B. Amendment to Sections 171 and 109 of CGST Act

a. Sunset Clause for Anti-Profiteering

The GST Council recommended introducing a sunset clause for anti-profiteering under GST. The handling of anti-profiteering cases will be transferred to the Principal Bench of the GST Appellate Tribunal (GSTAT).

b. Sunset Date for Anti-Profiteering Applications

The Council recommended setting a sunset date of 01.04.2025 for receiving any new applications regarding anti-profiteering.

C. Amendment to Section 16 of IGST Act and Section 54 of CGST Act

Restriction on IGST Refund for Export Duty-Payable Goods

The Council recommended amending Section 16 of the IGST Act and Section 54 of the CGST Act to restrict refunds for goods subjected to export duty. This restriction applies whether the goods are exported with or without payment of taxes and also applies to goods supplied to a SEZ developer or a SEZ unit for authorized operations.

D. Reduction in Threshold for Reporting B2C Inter-State Supplies

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

E. Insertion of Section 128A for Conditional Waiver

New Section 128A in CGST Act:

To address taxpayer difficulties during the early years of GST, the GST Council recommended waiving interest and penalties for demand notices issued under Section 73 for FY 2017-18 to FY 2019-20. This waiver applies if the full tax amount is paid by 31.03.2025 and does not cover erroneous refunds. The Council has recommended inserting Section 128A in the CGST Act,



2017 to implement this waiver.

F. Changes to Filing Requirements for FORM GSTR-7

a. Monthly Filing Requirement

The GST Council recommended that registered persons required to deduct tax at source under Section 51 of the CGST Act must file FORM GSTR-7 every month, regardless of whether any tax has been deducted.

b. No Late Fee for Nil Returns

No late fee will be payable for delayed filing of Nil FORM GSTR-7 returns.

c. Invoice-Wise Details

The Council also recommended that invoice-wise details must be furnished in the FORM GSTR-7 return.

IV. Trade Facilitation Measures

A. Rolling Out Biometric-Based Aadhaar Authentication Nationwide

The GST Council recommended implementing biometric-based Aadhaar authentication for registration applicants across India in a phased manner. This measure aims to strengthen the GST registration process and combat fraudulent input tax credit (ITC) claims made through fake invoices. Hope the logistical and infrastructural challenges associated with this change are thought through before it is rolled out all over India, experiences of pilot states like Gujarat have not been good on the ground.

B. Reduction of Government Litigation

Monetary Limits for Appeals: To reduce litigation, the GST Council recommended setting monetary limits for departmental appeals under GST:



- **GST Appellate Tribunal:** Rs. 20 lakhs
- **High Court:** Rs. 1 crore
- **Supreme Court:** Rs. 2 crores

C. Amendment in Sections 107 and 112 for Pre-Deposit Reduction

Reduced Pre-Deposit for Appeals: The GST Council recommended lowering pre-deposit amounts for filing GST appeals to improve cash flow for taxpayers. The changes are:

- **Appeal to Appellate Authority:** Maximum pre-deposit reduced from Rs. 25 crores (CGST) and Rs. 25 crores (SGST) to Rs. 20 crores (CGST) and Rs. 20 crores (SGST).
- **Appeal to Appellate Tribunal:** Pre-deposit reduced from 20% with a max of Rs. 50 crores (CGST) and Rs. 50 crores (SGST) to 10% with a max of Rs. 20 crores (CGST) and Rs. 20 crores (SGST).

D. Taxation of Extra Neutral Alcohol (ENA)

ENA Exclusion from GST: The GST Council recommended amending GST Law to exclude rectified spirit/Extra Neutral Alcohol (ENA) used for manufacturing alcoholic liquors for human consumption from GST. This involves amending sub-section (1) of Section 9 of the CGST Act, 2017.

E. Reduction in TCS Rate for ECOs

Lower TCS for Electronic Commerce Operators: The GST Council recommended reducing the TCS rate collected by Electronic Commerce Operators (ECOs) on net taxable supplies from 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 financial burdens on suppliers.



F. Extension in time for filing Appeals in GST Appellate Tribunal

Currently appeals in the Appellate tribunal are required to be filed within 3 months of receipt of order from the first appellate authority. As Tribunal has yet not been formed, it was notified earlier that this period of 3 years shall begin from the day the President of the Tribunal assumes office. Before the elections, retired High court judge Shri Sanjaya Kumar Mishra took oath as president of the GSTAT on 6.05.2024 and therefore the time limit to file appeals was to get over by 5.08.2024. However the tribunals have yet not been formed in any state. To alleviate this hassle, the GST Council recommended amending Section 112 of the CGST Act, 2017 to start the 3 month period for filing appeals before the Appellate Tribunal from a government-notified date for appeals/revision orders passed before the notification date. This gives taxpayers more time to file appeals in pending cases.

G. Relaxation in Section 16(4) of the CGST Act

a. For Financial Years 2017-18 to 2020-21

The GST Council recommended that the time limit to avail input tax credit for any invoice or debit note under Section 16(4) of the CGST Act, through any return in FORM GSTR 3B filed up to 30.11.2021 for financial years 2017-18, 2018-19, 2019-20, and 2020-21, be deemed to be 30.11.2021. **This requires a retrospective amendment to Section 16(4) of the CGST Act, effective from 01.07.2017.**

b. For Returns Filed After Revocation

The GST Council recommended a retrospective amendment to Section 16(4) of the CGST Act, effective from July 1, 2017, to conditionally relax the provisions for cases where returns for the period from the date of cancellation of registration until the date of revocation of cancellation are filed within thirty days of the revocation order.

H. Change in Due Date for Filing FORM GSTR-4 for Composition Taxpayers

The GST Council recommended amending Rule 62(1)(ii) of the CGST Rules, 2017, and FORM



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GSTR-4 to extend the due date for filing returns in FORM GSTR-4 for composition taxpayers from April 30th to June 30th following the end of the financial year. This change will apply from the financial year 2024-25 onwards.

I. Amendment of Rule 88B for Interest Calculation

The GST Council recommended amending Rule 88B of the CGST Rules to exclude amounts available in the Electronic Cash Ledger on the due date of filing FORM GSTR-3B from interest calculations under Section 50 of the CGST Act for delayed returns, provided these amounts are debited while filing the return.

J. Insertion of Section 11A in CGST Act

The GST Council recommended inserting Section 11A in the CGST Act to grant the government the power to regularize non-levy or short-levy of GST due to common trade practices, based on Council recommendations.

K. Refund of Additional IGST Paid on Upward Price Revision Post-Export

The GST Council recommended establishing a mechanism for claiming refunds of additional IGST paid due to upward price revisions of goods after export, aiding taxpayers who face such scenarios.

L. Clarification on Valuation of Import Services by Related Persons

The GST Council recommended clarifying that for services provided by foreign affiliates to related domestic entities, where full input tax credit is available, the value declared in the invoice may be deemed as open market value. If no invoice is issued, the value may be deemed Nil.

M. Clarification on ITC for OFC Network Components

The GST Council clarified that input tax credit is not restricted for ducts and manholes used in optical fiber cable networks under clauses (c) and (d) of Section 17(5) of the CGST Act.



N. Clarification on Place of Supply for Custodial Services

The GST Council recommended clarifying that the place of supply for custodial services provided by Indian Banks to Foreign Portfolio Investors is determined under Section 13(2) of the IGST Act, 2017.

O. Clarification on Valuation of Corporate Guarantees Between Related Persons

The GST Council recommended amending Rule 28(2) of the CGST Rules retroactively from 26.10.2023 and issuing a circular to clarify valuation issues for corporate guarantees between related parties, exempting such services in case of export and where the recipient is eligible for full input tax credit.

P. Clarification on Section 16(4) for RCM Invoices

The GST Council recommended clarifying that for supplies received from unregistered suppliers under the reverse charge mechanism, the relevant financial year for calculating the time limit for availing input tax credit under Section 16(4) is the year in which the recipient issues the invoice.

Q. Clarifications will be issued on following issues to reduce Litigation

- **Reimbursement of Securities/Shares as ESOP/ESPP/RSU:** Clarification on taxability.
- **Reversal of ITC in Life Insurance Services:** Clarification on requirement under Rule 32(4) of the CGST Rules.
- **Taxability of Wreck and Salvage Values in Motor Insurance Claims:** Clarification on taxability.
- **Warranty/Extended Warranty by Manufacturers:** Clarification on provision.
- **ITC on Repair Expenses in Motor Insurance:** Clarification for reimbursement mode.
- **Loans Between Related Persons or Group Companies:** Clarification on taxability.



- **Annuity Payments under HAM Projects:** Clarification on time of supply.
- **Allotment of Spectrum to Telecom Companies:** Clarification on time of supply for instalment payments.
- **Place of Supply for Goods to Unregistered Persons:** Clarification when delivery address differs from billing address.
- **Evidence for Compliance with Section 15(3)(b)(ii) Conditions:** Mechanism for post-sale discount compliance.
- **Special Procedure for Specified Commodities Manufacturers:** Clarification on issues for commodities like pan masala and tobacco.

R. Amendment for Transitional Credit for ISD Invoices

The GST Council recommended amending Section 140(7) of the CGST Act retrospectively from 01.07.2017 to provide for transitional credit for services provided before the appointed date with invoices received by Input Service Distributors before the appointed date.

S. New Optional Facility for GSTR-1 Amendment

The GST Council recommended introducing FORM GSTR-1A to allow taxpayers to amend or add details in FORM GSTR-1 before filing FORM GSTR-3B, ensuring accurate liability auto-population.

T. Exemption from Filing Annual Return for Small Taxpayers

The GST Council recommended exempting taxpayers with an aggregate annual turnover of up to two crore rupees from filing annual returns in FORM GSTR-9/9A for FY 2023-24.

U. Amendment to Section 122(1B) for E-Commerce Operators

The GST Council recommended amending Section 122(1B) of the CGST Act retrospectively from 01.10.2023 to clarify that the penal provision applies only to e-commerce operators



required to collect tax under Section 52 and not to others.

V. Adjustment Mechanism for Pre-Deposit Amounts

The GST Council recommended amending Rule 142 of the CGST Rules and issuing a circular to prescribe a mechanism for adjusting amounts paid in respect of a demand through FORM GST DRC-03 against the amount to be paid as pre-deposit for filing appeals.

W. Other miscellaneous recommendations:

- a. **Amnesty Scheme for Appeals:** An amnesty scheme will enable taxpayers to file appeals against demand orders under certain conditions until January 31, 2024, with pre-deposits and Electronic Cash Ledger provisions.
- b. **Automatic Restoration of Provisionally Attached Property:** Provisionally attached properties will be automatically released after one year.
- c. **Place of Supply Clarifications:** A circular will clarify the place of supply for various services, including transportation of goods outside India, advertising services, and co-location services.
- d. **Clarification on Export of Services:** A circular will clarify the admissibility of export remittances received in Special INR Vostro accounts for the qualification of services as exports.
- e. **Supplies to SEZ Units/Developers:** Amendments will allow suppliers to Special Economic Zone (SEZ) units/developers to claim refunds of integrated tax on supplies of goods or services.

V. Conclusion

Almost all recommendations coming out of this GST Council meeting are benevolent in nature and have very good feel to it, it can be seen that representations by various stakeholders have been considered and accepted. This consultative way forward, in my view, is what was missing



in the earlier meets. As said in our last alert 6/2023-24, we were really hoping that pre-deposits requirements for filing appeals must be reduced so as to lower the litigation cost, this crucial change has now been recommended, so is the demand for resolving 16(4) related demands and Hostel taxability.

All in all, these recommendations are beneficial or last section of the taxpayers, however, it is crucial to point out that in taxation matters, devil is always in the fine print, hope these well intended changes are not lost on the writing board.

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