

James

One of the
RSM team



Newsflash

53rd GST Council Meeting's Outcome

Newsflash

53rd GST Council Meeting's Outcome

For Circulation
24 June 2024

1.0 Background

The GST Council, headed by Union Finance Minister conducted its 53rd meeting on 22 June 2024 in New Delhi.

The 53rd Council meeting has concluded with a series of recommendations for issuance of clarifications and changes to laws, regulations, and sector-specific relief measures, duly considering the difficulties faced by the trade and industry.

Few of the major recommendations made by the GST Council are summarized hereunder:

2.0 Conditional waiver of interest and/or penalty in relation to demands imposed under Section 73 for the financial years 2017-18 to 2019-20 by insertion of Section 128A to the CGST Act:

As a facilitation measure and thereby acknowledging the teething issues faced by the trade and businesses during the early years of GST implementation, the Council in its 53rd meeting has recommended **waiver of interest and penalties demanded from the taxpayers in cases not involving fraud** i.e. notices issued under Section 73 of the CGST Act **pertaining to the financial years 2017-18, 2018-19 and 2019-20**, subject to **payment of demand of tax as raised through the notices on or before 31 March 2025**. The waiver provisions shall however not be applicable in case of notices for recovery of erroneously sanctioned refunds.

3.0 Reduction in amount of pre-deposit required to be made while filing appeals under GST by amendment to Section 107 and Section 112 of the CGST Act:

The GST Council has recommended **lowering the amount of pre-deposit for filing of appeals** to ease cash flow impediments. The maximum amount for filing **an appeal with the Appellate Authorities** is proposed to be **reduced from Rs. 25 crores to Rs. 20 crores, each under CGST and SGST**. Further, the **amount of pre-deposit for filing appeals with the GST Appellate Tribunal** is proposed to be **reduced from 20% to 10%** and the maximum amount to be reduced from **Rs. 50 crores to Rs. 20 crores, each under CGST and SGST**.



4.0 Lowering of the applicable TCS rate for the Electronic Commerce Operators (ECOs) in relation to supplies made through their e-commerce platform:

With a view to relieve the burden on suppliers using e-commerce portals to effect their outward transactions, the GST Council has recommended to **reduce the rate at which TCS is to be collected by ECOs** from such suppliers from the **existing 1%** (1% IGST or 0.5% CGST + 0.5% SGST) of net value of taxable supplies **to 0.5%** (0.5% IGST or 0.25% CGST + 0.25% SGST) of net value of taxable supplies.



5.0 Prescribing timelines for filing appeals before the GST Appellate Tribunal for orders passed before the date of notification:

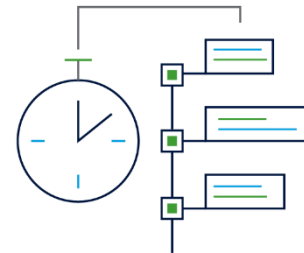
To provide the taxpayers with sufficient time to file an appeal before the GST Appellate Tribunal, the GST Council has recommended that the **three-month period for filing appeals before the Appellate Tribunal shall be counted from a date to be notified in respect of appeal/ revision orders passed before the date of said notification.**



6.0 Relaxation in condition of Section 16(4) of the CGST Act i.e. timelines for availing input tax credit in relation to a financial year:

6.1 In relation to the financial years 2017-18, 2018-19, 2019-20 and 2020-21:

The GST Council has recommended that the **time limit to avail input tax credit (ITC)** in respect of any invoice or debit note under Section 16(4) of CGST Act may be **deemed as 30 November 2021** where such ITC is availed through FORM GSTR 3B for any tax period which is filed up to 30 November 2021 **for the financial years 2017- 18, 2018-19, 2019-20 and 2020-21.** Necessary retrospective amendments in Section 16(4) of CGST Act have been accordingly recommended by the Council.



6.2 With respect to cases where returns have been filed after revocation of cancellation of GST Registration:

The GST Council has recommended **retrospective amendment in Section 16(4) of CGST Act to conditionally relax the timelines for availment of ITC** 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.**



7.0 Valuation of supply of import of services by a related person where recipient is eligible to full input tax credit:

It has been proposed to clarify that in cases where the **related foreign entity is providing certain services to its domestic affiliate**, for which the Indian entity is **entitled to full input tax credit**, the **value of such supply of services as declared in the invoice** by the said related domestic entity may be **deemed as open market value** in terms of the valuation rules. Further, in cases where full input tax credit is available to the recipient, if the **self-invoice is not issued by the related domestic entity** with respect to any service provided by the foreign affiliate to it, the **valuation may be deemed to be NIL**, and may qualify as open market value in terms of second proviso to Rule 28(1) of CGST Rules.

The aforesaid amendment may prove to be beneficial in the case of subsidiaries of foreign companies having frequent transactions of import of services from its foreign holding/associates. Also, considering the revenue neutrality of the transaction, the proposed amendment would benefit the trade and industry, at the same time not adversely impacting the tax revenue accruing to the government.

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

As one may be aware, the introduction of special valuation rules in case of issuance of corporate guarantees amongst related companies led to several ambiguities and apprehensions were raised from the members of the trade and industry necessitating additional clarity on aspects such as valuation in case of running guarantees, valuation of guarantees and input tax credit admissibility for period prior to the notification, the time of supply provisions for recurring guarantees, so on and so forth.



To settle the unrest and bring in necessary clarity, GST Council has recommended **amendment of Rule 28(2) of CGST Rules retrospectively with effect from 26 October 2023** and issuance of a circular to **clarify various issues regarding valuation of services of providing corporate guarantees between related persons**. The circular shall inter-alia clarify that **valuation prescribed under Rule 28(2) of CGST Rules** (i.e. higher of 1% of the amount of loan guaranteed or the actual consideration) **would not be applicable in case of export of such services and in cases where the recipient is eligible to claim of full input tax credit**.

9.0 Clarification surrounding applicability of barring of ITC as per timelines narrated under Section 16(4) of CGST Act, 2017, in respect of invoices issued by the recipient under Reverse Charge Mechanism (RCM):

It has been recommended to clarify that in cases of **supplies procured from unregistered**

suppliers, where the liability to pay GST lies upon the recipient under RCM and a self-invoice is thus to be issued by the recipient in such cases, the financial year in which the invoice has been issued by the recipient shall be considered as the relevant financial year for calculation of time limit for availment of ITC in accordance with Section 16(4) of the CGST Act in such cases.

10.0 Introduction of amendment return in Form GSTR-1A

It has been proposed to introduce an optional facility of filing **FORM GSTR-1A** thereby enabling the taxpayers to **add/amend the details of outward supplies** in **FORM GSTR-1** for a tax **period before filing of return in FORM GSTR-3B** for the said tax period. This will facilitate taxpayer to report any details of outward transactions missed to be furnished or incorrectly furnished (including those declared in IFF i.e. Invoice Furnishing Facility filed by QRMP scheme taxpayers) to ensure that correct liability is auto-populated in **FORM GSTR-3B**.

This is a welcome move and given that the amendment return would be optional in nature, it would not cause any additional compliances burden, at the same time would aid to mitigate mismatches between GSTR 1 and GSTR 3B of a particular period if the deviation is identified by the taxpayer prior to filing of GSTR 3B for the said period.

11.0 Proposition to issue clarificatory circulars

It has been recommended by the GST Council to issue circulars with a view to bring desired clarity on below critical topics amongst others:

- Taxability of re-imbusement of securities/shares as ESOP/ESPP/RSU provided by a company to its employees
- Taxability of loans granted between related person or between group companies.
- Time of supply on Annuity Payments under HAM Projects.
- Clarification relating to place of supply of goods supplied to unregistered persons, where delivery address is different from the billing address
- Clarification on mechanism for providing evidence by the suppliers for compliance of the conditions of Section 15(3)(b)(ii) of CGST Act, 2017 in respect of post-sale discounts, to the effect that input tax credit has been reversed by the recipient on the said amount.

12.0 Other significant propositions:

- 12.1** The GST Council has recommended provision of **common time limit** for issuance of demand notices and orders in cases under **Section 73 i.e. not involving fraud, suppression or wilful misstatement and under Section 74 i.e. those involving scenarios of fraud, suppression or wilful misstatement**, in respect of **demands for FY 2024-25 onwards**. Further, the time limit available to the taxpayers to avail the benefit of reduced penalty, by discharging the tax demanded with interest, has been recommended to be increased from 30 days to 60 days.

- 12.2** The GST Council has recommended amendment in Rule 88B of CGST Rules to provide that the **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 be **excluded while computing interest in relation to delayed filing of the said return**.
- 12.3** The Council has recommended to notify exemption for taxpayers having aggregate annual **turnover up to 2 crore rupees** from filing of annual return in **FORM GSTR-9/9A for the FY 2023-24**. It is noteworthy that such a relaxation from filing of annual return has been provided year-on-year up until now, bringing compliance relief to smaller taxpayers.
- 12.4** The GST Council has proposed 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**. This is a logical step and the demand accepted and paid through DRC 03 should be factored in while computation of amount of pre-deposit for filing of an appeal before the appellate forums.
- 12.5** It has been recommended to **roll out bio-metric based Aadhaar authentication** on All-India basis in a phased manner to fortify the GST registration mechanism; also helping to monitor and combat input tax credit (ITC) frauds attributable to false invoicing.
- 12.6** The **threshold for reporting of 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**.

13.0 Changes in GST Rates for goods and services

Changes in GST Rates for several goods and services have been recommended. Few of the significant rate-related amendments proposed with respect to services are as follows:

- To **exempt the services provided by Indian Railways to general public**, such as the 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**. The issue for the past period to be regularized from 20 October 2024 to the date of issue of exemption notification in the said regard.
- 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**. The issue for the past will be regularized on 'as is where is' basis for the period from 01 July 2017 till the date of issue of exemption notification in the said regard.
- To create a separate entry in CGST (Rate) Notification No. 12/2017 under heading 9963 thereby **exempting 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. A similar benefit is proposed to be extended for past cases.

- To **exempt Compensation Cess on the imports in Special Economic Zone (SEZ)** by SEZ Unit/developers for authorised operations **with effect from 01 July 2017.**

[Source: Press Release issued by PIB Delhi dated 22 June 2024]

For further information please contact:

RSM Astute Consulting Pvt. Ltd.

8th Floor, Bakhtawar, 229, Nariman Point, Mumbai - 400021.

T: (91-22) 6108 5555/ 6121 4444

F: (91-22) 6108 5556/ 2287 5771

E: emails@rsmindia.in

W: www.rsmindia.in

Offices: Mumbai, New Delhi - NCR, Chennai, Kolkata, Bengaluru, Navi Mumbai, Surat, Hyderabad, Ahmedabad, Pune, Gandhidham, Jaipur and Vijayanagar.



facebook.com/RSMInIndia



twitter.com/RSM_India



linkedin.com/company/rsm-india



Youtube.com/c/RSMIndia

RSM Astute Consulting Pvt. Ltd. (Including its affiliates) is a member of the RSM network and trades as RSM. RSM is the trading name used by the members of the RSM network.

Each member of the RSM network is an independent accounting and consulting firm each of which practices in its own right. The RSM network is not itself a separate legal entity of any description in any jurisdiction.

The RSM network is administered by RSM International Limited, a company registered in England and Wales (company number 4040598) whose registered office is at 50 Cannon Street, London EC4N 6JJ .

The brand and trademark RSM and other intellectual property rights used by members of the network are owned by RSM International Association, an association governed by article 60 et sec of the Civil Code of Switzerland whose seat is in Zug.

This Newsflash summarizes on major recommendations made by the GST Council in its 53rd Meeting. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said judgement and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

This Newsflash is protected under Copyright and Intellectual property laws and regulations

24th June 2024

© RSM India, 2024