

Key Highlights of the 53rd GST¹ Council Meeting

The 53rd GST Council meeting chaired by the Union Minister for Finance and Corporate Affairs, Smt. Nirmala Sitharaman was held on June 22, 2024, at Delhi. The GST Council has recommended various changes in GST rates, measures for facilitation of trade and streamlining GST compliances.

The key recommendations of the GST Council are summarized below.

Measures for reducing tax disputes

Insertion of Section 128A for conditional waiver of interest and penalty

Given the difficulties faced by taxpayers in the initial years of implementation of the GST law, Section 128A is proposed to be inserted in the CGST Act² for waiver of interest and penalty for demand notices issued under Section 73 of the CGST Act for period FY³ 2017-2018, 2018-2019 and 2019-2020. The benefit of Section 128A will be available subject to the condition that the entire tax demanded in the demand notice is paid by March 31, 2025. The said waiver will not be applicable for recovery of erroneous refunds.

Monetary limit for filing an appeal by the GST Department

To reduce litigations, the following monetary limits for filing appeals by the GST authorities has been recommended:

Sr. No.	Forum	Monetary Limit (INR)
1.	GSTAT ⁴	20,00,000 (Indian Rupees twenty lakh)
2.	High Court(s)	1,00,00,000 (Indian Rupees one crore)
3.	Supreme Court of India	2,00,00,000 (Indian Rupees two crore)

It remains to be clarified whether the said monetary limit pertains to the tax demanded or includes interest and penalty as well.

¹ Goods and Services Tax

² Central Goods and Services Tax Act, 2017

³ Financial Year

⁴ Goods and Services Tax Appellate Tribunal

Reduction in amount of pre-deposit required to file appeals under GST

To ease cashflow and working capital blockage, the amount of pre-deposit prescribed under Sections 107 and 112 of the CGST Act are proposed to be reduced:

Provision	Existing pre-deposit		Proposed pre-deposit	
	Percentage of tax demand	Maximum pre-deposit payable (INR)	Percentage of tax demand	Maximum pre-deposit payable (INR)
Section 107 – Appeal before the Appellate Authority	10%	25,00,00,000 (Indian Rupees twenty-five crore)	10%	20 (Indian Rupees twenty crore)
Section 112 – Appeal before the Appellate Tribunal	20%	50 (Indian Rupees fifty crore)	10%	20 (Indian Rupees twenty crore)

Extension of limitation period for filing appeal before the GSTAT

As per Section 112 of the CGST Act, an appeal before the relevant GSTAT is to be filed within 3 (three) months from the date of communication of the order. On account of non-constitution of GSTAT, it was clarified that the period of 3 (three) months was to be computed from the date on which the President or the State President of GSTAT enters office.

The GST Council has recommended an amendment to Section 112 of the CGST Act whereby the limitation period is to be computed from a date which will be notified.

Alignment of time limit for issuance of demand notice and orders

Sections 73 and 74 of the CGST Act provide different time limits for issuance of demand notice(s)/ order(s) depending upon whether charges of fraud, suppression, willful misstatement etc. are involved or not. In order to simplify the implementation of these provisions, it has been recommended that Section 74A be introduced to align the time limits prescribed for issuance of demand notice(s)/order(s) under the said sections for tax demands pertaining to FY 2024-25 onwards.

It is also proposed to increase the time limit for availing the benefit of reduced penalty on voluntary payment of tax demanded and interest, from 30 (thirty) days to 60 (sixty) days.

Insertion of Section 11A in CGST Act to give power not to recover duties

It is recommended that to empower the government to regularize non-levy/ short levy of tax as a result of common trade practices.

Amendments with respect to ITC⁵

Extension of time limit for availment of ITC for FY 2017-18 to FY 2020-21

Retrospective amendment of Section 16(4) of CGST Act is recommended to prescribe the time limit for availment of ITC in relation to invoice and debit notes recorded through Form GSTR-3B filed for FY 2017-18 to FY 2020-21 may be deemed to be November 30, 2021.

⁵ Input tax credit

Further, in relation to returns filed after revocation of cancellation of registration, it is recommended that time limit of 30 (thirty) days from the order of revocation be provided.

Time limit to avail ITC in case of invoices issued by recipients in reverse charge scenario

It is recommended to clarify that in cases involving supplies from unregistered suppliers, where tax is payable by the recipient under RCM⁶, the relevant FY for computing the time limit prescribed under Section 16(4) of the CGST Act to claim ITC will be the FY in which the invoices are issued by the recipient.

Transitional credit to Input Service Distributors

It is recommended to retrospectively amend Section 140(7) of the CGST Act to allow Input Service Distributors (ISD) to transition credit in respect of services and invoices received prior to implementation of GST.

Due date for filing Form GSTR-4 to be amended

The due date of filing Form GSTR-4 which is a quarterly return to be filed by composition taxpayers is April 30th of the next FY. It is recommended that an amendment be made to the due date from April 30th to June 30th, for FY 2024-25 onwards

Measures for facilitating GST compliances

Introduction of optional facility by way of Form GSTR-1A to amend details reported in Form GSTR-1

To facilitate taxpayers to add/ amend any particulars of supply which was missed out while filing Form GSTR-1, the Council has recommended a new optional facility by way of Form GSTR-1A before filing Form GSTR-3B.

Amendment of Rule 88B of CGST Rules for interest on delayed filing of returns where credit is available in Electronic Cash Ledger

In light of various ongoing disputes, it has been recommended by the Council to amend Rule 88B of CGST Rules to provide that an amount which is available in the Electronic Cash Ledger as on the due date of filing of return in Form GSTR-3B and is debited while filing the said return, will not be included while computing interest under Section 50 of CGST Act in respect of delayed filing of return.

Threshold for filing annual return in Form GSTR-9/9A for FY 2023-24

It is recommended that a taxpayer with turnover upto INR 2,00,00,000 (Indian Rupees two crore) be exempted from the requirement filing annual returns for FY 2023-24.

Amendments in relation to anti-profiteering provisions

It is recommended that Section 171 of the CGST Act be amended to provide for a sunset clause for anti-profiteering under GST laws by April 1, 2025. As a consequence, no new applications will be taken up post April 1, 2025 for profiteering under the GST laws, for past as well as future periods.

⁶ Reverse charge mechanism

Further, amendments under Section 109 of the CGST Act are proposed to empower the Principal Bench of the GSTAT for handling of all anti-profiteering matters.

Recommendations relating to supply of goods and services

1. Recommendations relating to supply of goods (including rates of GST)

- a) Exemption from payment of Compensation Cess on (i) imports by SEZ⁷ unit/developer for authorized operations, with effect from July 1, 2017, and (ii) supply of aerated beverages and energy drinks supplied to authorized customers in canteens operated by the Ministry of Defence.
- b) IGST⁸ exemption on import of specified items for defence forces extended to be extended for a further period of 5 (five) years (till June 30, 2029).
- c) Import of *'parts, components, testing equipment, tools and tool-kits of aircrafts'* irrespective of its HSN⁹ classification for MRO¹⁰ activities to attract uniform rate of 5% IGST, subject to specified conditions.
- d) Rate of GST applicable on supply of *'carton, boxes and cases for both corrugated and non-corrugated paper on paper board'* (covered under HSN 481910 & 481920) reduced to 12% from 18%.

2. Recommendations relating to supply of services (including rates of GST)

- a) Exemption on the supply of following services:
 - i) Accommodation services having value of supply of accommodation of up to INR 20,000 (Indian Rupees twenty thousand) per month per person, subject to the condition that the accommodation service is supplied for a minimum continuous period of 90 (ninety) days.
 - ii) Services provided by Indian Railways to general public viz. sale of platform tickets, cloak room services, waiting room services, etc. and for intra-railway transactions.
 - iii) Statutory collections made by RERA¹¹.
 - iv) Sharing of incentives by acquiring bank with other stakeholders under *'incentives scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions'*.
- b) The following transactions to be excluded from the scope of 'supply':
 - i) Co-insurance premium apportioned by lead insurer to the co-insurer for the supply of insurance services by the lead insurer and co-insurer to the insured.
 - ii) Re-insurance commission ceded by the insurer to the re-insurer.

3. Relief to E-Commerce Operators

Section 52(1) of the CGST Act requires an E-Commerce Operator (ECO) to collect tax at source (TCS) on net taxable supply at the rate of not more than 1% (0.5% CGST + 0.5% SGST). The GST Council has recommended reduction of this rate from 1% to 0.5% (0.25% CGST + 0.25% SGST).

The GST Council further clarifies that penalties prescribed under Section 122(1B) of the CGST Act will be applicable only to ECOs covered under Section 52 of the CGST Act and not to other ECOs.

⁷ Special Economic Zone

⁸ Integrated Goods and Service Tax

⁹ Harmonized System of Nomenclature

¹⁰ Maintenance, Repair and Operation

¹¹ Real Estate Regulatory Authority

Issuance of clarification(s) to reduce litigation

The GST Council has recommended to issue clarification(s) for trade and tax officers, to reduce litigation, on the following matters:

1. Taxability of re-imbusement of securities/shares as ESOP/ESPP/RSU¹² provided by a company to its employees.
2. Taxability of wreck and salvage values in motor insurance claim.
3. Requirement of reversal of ITC in respect of amount of premium in life insurance services.
4. Warranty/Extended warranty provided by manufacturers to the end customers.
5. Availability of ITC on repair expenses incurred by the insurance companies in case of reimbursement made of settlement of motor vehicle insurance claim
6. Taxability of loan granted between related persons and between group companies.
7. Time of supply in annuity payments under hybrid annuity model projects.
8. Time of supply in respect of allotment of spectrum to telecom companies in cases where payment of license fee and spectrum usage charges is to be made in instalments.
9. Place of supply of goods supplied to unregistered persons, where delivery address is different from the billing address
10. Mechanism for providing evidence by the suppliers for compliance of the conditions of Section 15(3)(b)(ii) of CGST Act in respect of post-sale discounts, to the effect that ITC has been reversed by the recipient on the said amount.
11. Various issues pertaining to special procedures for the manufacture of the specified commodities like pan masala, tobacco etc.
12. Various issues regarding valuation of services of providing corporate guarantee between related parties after insertion of rule 28(2) in CGST Rules.

Other key recommendations/clarifications

The GST Council has recommended some of the key recommendations/ clarifications as below:

1. It is recommended that a mechanism for claiming refund of additional IGST paid on account of upward revision in price of the goods, subsequent to their export, be prescribed.
2. It has been recommended to clarify that in cases where foreign affiliates are providing certain services to related domestic entity for which full ITC is available to recipient, the value of supply of services declared in invoice by the domestic entity may be deemed as open market value in terms of second proviso to Rule 28(1) of the CGST Rules. Where no invoice has been raised, the value of service will be deemed to be declared Nil and may be deemed as open market value in terms of second proviso to Rule 28(1) of CGST Rules. This clarification is in line with the circular¹³ issued by the CBIC¹⁴.
3. Amendment to Section 16 of IGST Act and Section 54 of CGST Act to restrict GST/ITC refund in respect of goods which are subjected to export duty, irrespective of whether said goods are exported with/ without payment of duty. This restriction will also be applicable if such goods are supplied to SEZ developer or a SEZ unit for authorized operations.
4. The place of supply for custodial services provided by Indian banks to foreign portfolio investors to be determined as per Section 13(2) of the IGST Act.

¹² Employee Stock Option Plan/ Restricted Stock Units/ Employee Share Purchase Plan

¹³ Circular No. 199/11/2023-GST, dated July 17, 2023, issued by the Central Board of Indirect Taxes and Customs

¹⁴ Central Board of Indirect Taxes and Customs

5. Threshold for reporting of B2C inter-state supplies invoice-wise in Table 5 of GSTR-1 recommended to be reduced from INR 2,50,000 (Indian Rupees two lakh fifty thousand) to INR 1,00,000 (Indian Rupees one lakh).
6. Return in GSTR-7 to be filed by 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 in the said month or not. No late fee may be payable for delayed filing of Nil GSTR-7. Invoice-wise details will be required to be furnished in GSTR-7.

The above recommendations of the GST Council as discussed during the meeting held on June 22, 2024 are published by way of a press release. The amendments and clarifications proposed above will be effective only when notified/clarified *vide* the Finance Bill, 2024 (proposed to be tabled in the second or third week of July 2024) or notifications and circulars issued by CBIC from time to time.

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