

# RECOMMENDATIONS AND AMENDMENTS PROPOSED BY 31<sup>ST</sup> GST COUNCIL MEETING DATED 22<sup>ND</sup> DECEMBER 2018 IN NEW DELHI

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The GST Council in its 31<sup>st</sup> meeting held on 22<sup>nd</sup> December 2018 at New Delhi discussed and approved: (i) Some policy recommendations; (ii) certain amendments in the GST Law; (iii) reduction in GST rates for certain category of goods and services; (iv) clarifications on GST rates for existing goods or services; and (v) Certain important issues referred to by GST Council to various Committees/ Group of Ministers (GoM).

The decisions made by GST Council on these proposals is expected to bring relief to the taxpayers while complying to the GST Law and shall also result in ease of doing business.

Below mentioned is the gist of announcements made by the GST Council categorised into below sections:

1. **Amendments in the GST Law**
2. **Reduction in GST Rate – Goods**
3. **Reduction in GST Rate – Services**
4. **Extension of migration window for taxpayers**
5. **Policy Changes in GST laws**
6. **Certain Important issues referred to by GST Council to various Committees/ GoM**

Proposed Amendments in the GST Act		
Sl. No.	Proposal Category	Gist of the recommendations made by the GST Council
1	Creation of Centralized Appellate Authority for Advance Ruling (AAAR)	Creation of a Centralized Appellate Authority for Advance Ruling (AAAR) to deal with cases of conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue
2	Interest to be charged only on net tax liability of taxpayer, after considering admissible ITC	It has been proposed to amend Section 50 of the CGST Act to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit, i.e. interest would be leviable only on the amount payable through the electronic cash ledger. <i>(This shall eliminate conflicting views on whether interest is to be paid on entire liability or to be paid on net liability after utilization of admissible ITC).</i>
<i>The above recommendations of the Council will be made effective only after the necessary amendments in the GST Acts are carried out</i>		

Recommendations made by the GST Council on General Matters		
Sl. No.	Proposal Category	Gist of the recommendations made by the GST Council
1	Single Cash ledger	It is proposed by the GST Council to have a single cash ledger for each tax head. The modalities for implementation would be finalized in consultation with GSTN and the Accounting authorities
2	Single authority for disbursement of refund amount	A scheme of single authority for disbursement of the refund amount sanctioned by either the Centre or the State tax authorities would be implemented on pilot basis. The modalities for the same shall be finalized shortly.
3	New Return Filing System	The new return filing system shall be introduced on a trial basis from 01.04.2019 and on mandatory basis from 01.07.2019.
4	Extension of due date for	The due date for furnishing FORM GSTR-8 by e-commerce

	furnishing GSTR 8 by E-Commerce Operators	operators for the months of October, November and December, 2018 shall be extended till 31.01.2019.
5	Extension of due date for furnishing GST ITC 04	The due date for submitting FORM GST ITC-04 for the period July 2017 to December 2018 shall be extended till 31.03.2019.
6	Extension of Due date for claiming ITC for 2017-18	<b><i>ITC in relation to invoices issued by the supplier during FY 2017-18 may be availed by the recipient till the due date for furnishing of FORM GSTR-3B for the month of March, 2019, subject to specified conditions.</i></b> This is a welcome move considering many businesses could not avail ITC for the last FY due to lapse in due date.
7	Complete Waiver of Late Fees for filing of GSTR 1, GSTR 3B & GSTR 4 from July 17 to September 2018	Late fee shall be completely waived for all taxpayers in case FORM GSTR-1, FORM GSTR-3B & FORM GSTR-4 for the months / quarters July, 2017 to September, 2018, are furnished after 22.12.2018 but on or before 31.03.2019.
8	Restriction on generation of E-Way Bill	Taxpayers who have not filed the returns for two consecutive tax periods shall be restricted from generating e-way bills. This provision shall be made effective once GSTN/NIC make available the required functionality.
9	Clarification to be issued on certain refund related matters	Clarifications shall be issued on certain refund related matters like refund of ITC accumulated on account of inverted duty structure, disbursement of refunds within the stipulated time, time allowed for availment of ITC on invoices, refund of accumulated ITC of compensation cess etc.

**Note: Changes made by CGST (Amendment) Act, 2018, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and GST (Compensation to States) Amendment Act, 2018 and the corresponding changes in SGST Acts would be notified w.e.f. 01.02.2019.**

Recommendations made by the GST Council on Annual Return		
Sl. No.	Proposal Category	Gist of the recommendations made by the GST Council
1	Further extension of due date for filing GSTR 9, GSTR 9A and GSTR 9C	The due date for furnishing the annual returns in FORM GSTR-9, FORM GSTR-9A and reconciliation statement in FORM GSTR-9C for the Financial Year 2017 – 2018 shall be <b>further extended till 30.06.2019. (Earlier the due date was extended from 31<sup>st</sup> December 2018 to 31<sup>st</sup> March 2019).</b>  This extension is proposed in view of proposed changes in the format of Annual Returns and extension of time limit for claiming eligible ITC till 31 <sup>st</sup> March 2018
2	<b>Clarificatory changes in the formats/Instructions in the Annual Return</b>	
A	Amendment in the heading for supplies “as declared in returns filed during the year”	Amendment of headings in the forms to specify that the return in FORM GSTR-9 & FORM GSTR-9A would be in respect of supplies etc. ‘made during the year’ and not ‘as declared in returns filed during the year’;
B	All returns in Form GSTR 1, GSTR 3B and GSTR 4 to be filed	<b>All returns in FORM GSTR-1, FORM GSTR-3B (For regular taxpayers) and FORM GSTR 4 (For composition taxpayers) have to be filed before filing of FORM GSTR-9, GSTR 9A and FORM GSTR-9C;</b>
C	HSN Code for Inward Supplies	HSN code may be declared only for those inward supplies whose value independently accounts for 10% or more of the total value of inward supplies;  (This is much needed relief for tax-payers who were finding difficult to declare HSN for inward supplies since filing of GSTR 2 was

		deferred)
D	Additional Payments in Annual Return	Additional payments, if any, required to be paid can be done through FORM GST DRC-03 only in cash;
E	ITC cannot be claimed through Annual Return or Reconciliation Statement	ITC cannot be availed through <b>FORM GSTR-9 &amp; FORM GSTR-9C</b>
F	Auto Population of Invoices for Previous FY	All invoices pertaining to previous FY (irrespective of month in which such invoice is reported in FORM GSTR-1) would be auto-populated in Table 8A of Annual Return
G	Value of "Non GST Supply" to also include value of "No Supply"	Value of "non-GST supply" shall also include the value of "no supply" and may be reported in Table 5D, 5E and 5F of Annual Return
H	Verification for Upload of GST Audit Report	Verification by taxpayer who is uploading reconciliation statement would be included in <b>FORM GSTR-9C</b> .

**Note: The changes in Annual Return and further extension is a welcome move since the businesses will get time to collate information for preparing Annual Return and Reconciliation Statement for GST Audit Report**

Recommendations made by the GST Council on Refunds		
Sl. No.	Proposal Category	Gist of the recommendations made by the GST Council
1	Single authority for disbursement of refund amount	A scheme of single authority for disbursement of the refund amount sanctioned by either the Centre or the State tax authorities would be implemented on pilot basis. The modalities for the same shall be finalized shortly.
2	Refund mechanism to be completely digitized, eliminating need to visit Department	All the supporting documents/invoices in relation to a claim for refund in FORM GST RFD-01A shall be uploaded electronically on the common portal at the time of filing of the refund application itself, thereby eliminating the need for a taxpayer to physically visit a tax office for submission of a refund application. GSTN will enable this functionality on the common portal shortly. <b>This is a welcome move since there has been delay in granting refund by Authorities for want of proper documents. If all the documents are uploaded during filing of refunds, the refund process may be expedited.</b>
3	Additional class of refunds made available through filing of GST RFD – 01A	In addition to the existing refund applications, below applications shall also be made available through filing of <b>GST RFD – 01A</b> (i) Refund on account of Assessment/Provisional Assessment/ Appeal/ Any Other Order; (ii) Tax paid on an intra-State supply which is subsequently held to be inter-State supply and vice-versa; (iii) Excess payment of Tax; and (iv) Any other refund.
4	Existing refund applications filed before roll out of new refund mechanism	✓ In case of applications for refund in FORM GST RFD-01A which are generated before the roll out of the functionality described in point 1 above, and which have not been submitted in the jurisdictional tax office within 60 days of the generation of ARN, <b>the claimants shall be sent communications on their registered email ids containing information on where to submit the said refund applications.</b> ✓ If the applications are not submitted within 15 days of the date of the email, the said refund applications shall be summarily rejected, and the debited amount, if any, shall be re-credited to the electronic credit ledger of the claimant.

Extension of Migration Window		
Sl. No.	Proposal Category	Gist of the recommendations made by the GST Council
1	Extension of date for migration window for Tax Payers	Proposal to provide one more migration window for taxpayers, who received provisional IDs but could not complete the migration process has been approved. <b>Similar window was granted by the GST Council in its 28<sup>th</sup> Council Meet on 21<sup>st</sup> July 2018.</b>
2	Process for completion of migration	The due date for the taxpayers who did not file the complete <b>FORM GST REG-26</b> but received only a Provisional ID (PID) till 31.12.2017 for furnishing the requisite details to the jurisdictional nodal officer shall be extended till 31.01.2019.
3	Extension of Due Dates for such Tax-Payers	The due date for furnishing <b>FORM GSTR-3B</b> and <b>FORM GSTR-1</b> for the period July, 2017 to February, 2019/quarters July, 2017 to December, 2018 by <b>such taxpayers shall be extended till 31.03.2019.</b>

Formation of Group of Ministers for revenue trend, including analyzing the reasons for structural patterns affecting the revenue collection in some of the States	
✓	The GST Council in its 31st meeting held today at New Delhi has approved the proposal to form a 7 Member Group of Ministers to study the revenue trend, including analysing the reasons for structural patterns affecting the revenue collection in some of the States.
✓	The study would include the underlying reasons for deviation from the revenue collection targets <i>vis a vis</i> original assumptions discussed during the design of GST system, its implementation and related structural issues.
✓	The Group of Ministers will be assisted by the committee of experts from Central Government, State Governments and the NIPFP (National Institute of Public Finance and Planning), who would study and share the findings with GoM.
✓	The GoM in turn would give its recommendation to the GST Council.

GST on solar power generating plant and other renewable energy plants	
✓	GST rate of 5% rate has been prescribed on renewable energy devices & parts for their manufacture (bio gas plant/solar power based devices, solar power generating system (SGPS) etc) [falling under chapter 84, 85 or 94 of the Tariff]. Other goods or services used in these plants attract applicable GST.
✓	Certain disputes have arisen regarding GST rates where specified goods attracting 5% GST are supplied along with services of construction etc and other goods for solar power plant
✓	To resolve the dispute the Council has recommended that in all such cases, <b>the 70% of the gross value shall be deemed as the value of supply of said goods attracting 5% rate</b> and the <b>remaining portion (30%) of the aggregate value of such EPC contract shall be deemed as the value of supply of taxable service attracting standard GST rate i.e. 18% rate of GST.</b>

Reduction in GST Rate - Goods - From 28% to 18%	
Sl. No	Description of Goods
1	Pulleys, transmission shafts and cranks, gear boxes etc., falling under HS Code 8483
2	Monitors and TVs of upto screen size of 32 inches
3	Re-treaded or used pneumatic tyres of rubber;
4	Power banks of lithium ion batteries. Lithium ion batteries are already at 18%. This will bring parity in GST rate of power bank and lithium ion battery. Lithium-ion battery rates were reduced from 28% to 18% in the 28th Council Meeting held on 21st July 2018
5	Digital cameras and video camera recorders
6	Video game consoles and other games and sports requisites falling under HS code 9504
Reduction in GST Rate - Goods - From 28% to 5%	
Sl. No	Description of Goods
7	Parts and accessories for the carriages for disabled persons
Reduction in GST Rate - Goods - From 18% to 12%	
Sl. No	Description of Goods
8	Cork roughly squared or debagged
9	Articles of natural cork

<b>10</b>	Agglomerated cork
<b>Reduction in GST Rate - Goods - From 18% to 5%</b>	
<b>Sl. No</b>	<b>Description of Goods</b>
<b>11</b>	Marble rubble
<b>Reduction in GST Rate - Goods - From 12% to 5%</b>	
<b>Sl. No</b>	<b>Description of Goods</b>
<b>12</b>	Natural Cork
<b>13</b>	Walking Sticks
<b>14</b>	Fly Ash Blocks
<b>Reduction in GST Rate - Goods - From 12% to NIL</b>	
<b>Sl. No</b>	<b>Description of Goods</b>
<b>15</b>	Music Books
<b>Reduction in GST Rate - Goods - From 5% to NIL</b>	
<b>Sl. No</b>	<b>Description of Goods</b>
<b>16</b>	Vegetables, (uncooked or cooked by steaming or boiling in water), frozen, branded and put in a unit container
<b>17</b>	Vegetable provisionally preserved (for example by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption

<b>Miscellaneous Exemptions/ Clarifications related to Goods</b>	
<b>1</b>	→ Exemption from GST on supply of gold by Nominated Agencies to exporters of article of gold Jewellery
<b>2</b>	→ Exemption from GST on proceeds received by Government from auction of gifts received by President, Prime Minister, Governor or Chief Minister of a State and public servants, the proceeds of which is used for public or charitable cause
<b>3</b>	→ Exemption from IGST/Compensation cess on vehicles imported for temporary purposes under the Customs Convention on the Temporary importation of Private Road Vehicles (carnet de passages-en-douane).
<b>4</b>	→ Rate of 5%/18% to be applied based on transaction value of footwear.
<b>5</b>	→ Uniform GST rate of 12% on Flexible Intermediate Bulk Container (FIBC) from existing 5%/12% (depending on the value)

<b>Clarifications related to Goods</b>	
<b>1</b>	→ Sprinkler system consisting of nozzles, lateral and other components would attract 12% GST rate under S.No. 195B of notification No. 1/2017-Central Tax (Rate) dated 28.6.2018
<b>2</b>	→ Movement of Rigs, Tools & Spares and all goods on wheels on own account where such movement is not intended for further supply of such goods but for the provision of service does not involve a supply (e.g., movement of testing equipment etc.) and is not be liable to GST
<b>3</b>	→ The goods with description Bagasse Board [whether plain or laminated] falling under Chapter 44 attract GST at the rate of 12%.
<b>4</b>	→ Concessional GST rate of 5% applies to the LPG supplied in bulk to an OMC by refiners/fractioners for bottling for further supply to household domestic consumers
<b>5</b>	→ While animal/cattle/aquatic/poultry feed are exempt vide S. No. 102 of notification No. 2/2017-Central Tax (Rate), this exemption would not apply to their inputs such as fish meal, meat bone meal, bran, sharps, oil cakes of various oil seeds etc
<b>6</b>	Manure of determination of classification of vitamins, provitamins etc. as animal feed supplements
<b>7</b>	Sattu or Chattua falling under HS code 1106 and attracts the applicable GST rate
<b>8</b>	Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP falls under HS code 3923 and attract 18% GST rate
<b>9</b>	18% GST is applicable on wood logs including the wood in rough/log used for pulping
<b>10</b>	Turbo charger is classified under heading 8414 and attracts 18% GST and not 5% GST
<b>11</b>	Fabric even if embroidered or has stitching of lace and tikki etc., and even if sold in three piece fabric as ladies suit set, will be classifiable as fabric and would attract 5% GST
<b>12</b>	Scope of concessional rate of 5% GST rate for specified equipment for waste to energy plant

Reduction in GST Rate - Services - From 28% to 18%	
Sl. No	Description of Services
1	Cinema tickets above Rs. 100
Reduction in GST Rate - Services - From 18% to 12%	
Sl. No	Description of Services
2	Cinema tickets upto Rs. 100
3	Third party insurance premium of goods carrying vehicles

Exemption/ Reduction in GST Rate - Services		
Sl. No	Service Category	Decision taken by the GST Council
1	Basic Savings Bank Deposit under PM Jan Dhan Yojana (PMUDY)	→ Exempt Services supplied by banks to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY)
2	Services by GTA to Government Department/Local Authorities	→ Exempts services provided by GTA to Government departments/local authorities which have taken registration only for the purpose of deducting tax under Section 51 shall be excluded from payment of tax under RCM
3	Guarantee by CG/SG/UT to their undertakings or PSUs for Loan	→ Exemption on services provided by Central or State Government or Union Territory Government to their undertakings or PSUs by way of guaranteeing loans taken by them from financial institutions is being extended to guaranteeing of such loans taken from banks.
4	Air Travel of Pilgrims by Non Scheduled/Charter Operations	→ Air travel of pilgrims by non-scheduled/charter operations, for religious pilgrimage facilitated by the Government of India under bilateral arrangements shall attract the same rate of GST as applicable to similar flights in Economy class (i.e. 5% with ITC of input services)
Services brought under RCM		
Sl. No	Service Category	Decision taken by the GST Council
1	RCM extended to services to Parliament and State Legislatures	Parliament and State legislatures shall be extended the same tax treatment with regard to payment of tax under RCM (reverse charge mechanism) as available to Central and State Governments.
2	RCM on Security Services	Security services (supply of security personnel) <b>provided to a registered person</b> , except Government Departments which have taken registration for TDS and entities registered under composition scheme, <b>shall be put under RCM.</b>
3	RCM on Services by Unregistered Business Facilitator to Banks	Services provided by unregistered Business Facilitator (BF) to a bank shall be put under RCM.
4	RCM on Services by agent of Business Correspondent to a Business Correspondent	Services provided by agent of Business correspondent (BC) to a Business correspondent shall be put under RCM.
Clarifications related to services		
1		→ With effect from 31st January, 2018 degrees/ diploma awarded by IIMs under IIM Act, 2017 will be exempt

2	→ For the State of West Bengal - that services provided by Council/ Board of Primary/ Secondary/ Higher Secondary Education for conduct of examination to its students are exempt
3	→ <b>“printing of pictures”</b> falls under service code <b>“998386: Photographic and video graphic processing services”</b> of the scheme of classification of services and attract GST @18% and not under <b>“998912: Printing and reproduction services of recorded media, on a fee or contract basis”</b> which attracts GST @12%.
4	→ Nature of business establishment making supply of food, drinks and other articles for human consumption will not determine whether the supply by such establishments is a supply of goods or services. It will rather depend on the constituents of each individual supply and whether same satisfies the conditions / ingredients of a ‘composite supply’ or ‘mixed supply’
5	→ Under section 11(3) of the CGST Act, 2017 - the scope of entry for multi-modal transport with GST rate of 12% inserted w.e.f. date 26.07.2018, covers only transport of goods from a place in India to another place in India, that is, only domestic multi-modal transport.
6	→ GST is exempt on supply of food and drinks by an educational institution when provided by the institution itself to its students, faculty and staff and is leviable to GST of 5% when provided by any other person based on a contractual arrangement with such institutions
7	→ The banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via business facilitator or the business correspondent.

Certain Important issues referred by GST Council to various Committees/ GoM		
Sl. No	Committee/GoM	Issues
1	Law Committee and Fitment Committee.	→ Extending the Composition scheme to small service providers along with the rate of tax and threshold limit → Taxation of residential property in real estate sector
2	Committee of States	Tax Rate on Lotteries
3	GoM on MSMEs	Threshold limit of exemption under GST regime

The recommendations made by the GST Council are indeed a welcome move, which shall provide some relief to small tax-payers to comply with the requirements of GST Law. We need to await for the notifications and law amendments as well as change in the GSTN portal for effective implementation and introduction of the suggestions.

It has also been observed that all the suggestions made by the earlier Council meet has not been fully implemented till now.