

## **HIGHLIGHTS OF THE 50<sup>TH</sup> GST COUNCIL MEETING**

GST Council recommends Casino, Horse Racing and Online gaming to be taxed at the uniform rate of 28% on full face value

GST Council recommends notification of GST Appellate Tribunal by the Centre with effect from 01.08.2023

GST Council recommends IGST exemption for Dinutuximab (Quarziba), medicines and Food for Special Medical Purposes (FSMP) when imported for personal use subject to existing conditions. Recommends extension of exemption to FSMP imported by Centres of Excellence for Rare Diseases or any institution or person on recommendation of such listed Centres of Excellence.

Recommends bringing down rates from 18 percent to 5 percent on 4 items - Uncooked, unfried & extruded snack palettes, fish soluble paste, LD slag (at par with blast furnace slag) and imitation zari thread.

### **Changes in GST Tax Rates:**

#### **I. Recommendations relating to GST rates on Goods**

##### **A. Changes in GST rates of goods**

1. It has been decided to reduce the rate on uncooked/unfried snack pellets, by whatever name called, to 5% and to regularise payment of GST on uncooked /unfried snack pellets during the past period on "as is basis".

##### **B. Other changes relating to goods**

1. It has been decided to exempt IGST on Dinutuximab (Quarziba) medicine when imported for personal use.
2. It has been decided to exempt IGST on medicines and Food for Special Medical Purposes (FSMP) used in the treatment of rare diseases enlisted under the National Policy for Rare Diseases, 2021 when imported for personal use subject to existing conditions. Similarly, IGST exemption is also being extended to FSMP when imported by Centres of Excellence for Rare Diseases or any person or institution on recommendation of any of the listed Centres of Excellence.
3. It has been decided to clarify that supply of raw cotton, including kala cotton, by agriculturists to cooperatives is taxable under reverse charge mechanism and to regularise issues relating for the past period on "as is basis".
4. It has been decided to reduce GST on imitation zari thread or yarn known by any name in trade parlance from 12% to 5% and to regularize payment of GST related to this matter during the past period on "as is basis".
5. It has been decided to amend the entry 52B in compensation cess notification to include all utility vehicles by whatever name called provided they meet the parameters of Length exceeding 4000 mm, Engine capacity exceeding 1500 cc and having Ground Clearance of 170 mm & above and to clarify by way of explanation that 'Ground clearance' means Ground Clearance in un-laden condition.
6. It has been decided to reduce GST rate on LD slag from 18% to 5% to encourage better utilisation of this product and for protection of environment.
7. It has been decided to regularise the matters relating to trauma, spine and arthroplasty implants for the period prior to 18.07.2022 on "as is basis" in view of genuine interpretational issues.

8. It has been decided to reduce the GST rate on fish soluble paste from 18% to 5% and to regularise payment of GST on fish soluble paste during the past period on "as is basis".
9. It has been decided to regularise the matters relating to dessicated coconut for the period 1.7.2017 to 27.7.2017 on "as is basis" in view of genuine interpretational issues.
10. It has been decided that on pan masala, tobacco products etc, where it is not legally required to declare the retail sale price, the earlier ad valorem rate as was applicable on 31st March 2023 may be notified in order for levy of Compensation Cess.
11. It has been decided to include RBL Bank and ICBC bank in the list of specified banks for which IGST exemption is available on imports of gold, silver or platinum and update the list of banks /entities eligible for such IGST exemption as per Annexure 4B (HBP) of Foreign Trade Policy 2023.
12. Consequential changes in notifications may be carried out in view of new Foreign Trade Policy 2023.
13. It has been decided to regularise the issues relating to GST on plates and cups made of areca leaves prior to 01.10.2019.
14. It has been decided to regularise the issues relating to GST on biomass briquettes for the period 01.7.2017 to 12.10.2017.

## II. **Recommendations relating to GST rates on Services**

### **A. Changes in GST rates of services**

1. It has been decided that GST exemption on satellite launch services supplied by ISRO, Antrix Corporation Limited and New Space India Limited (NSIL) may be extended to such services supplied by organisations in private sector also to encourage start-ups.

### **B. Other changes relating to Services**

#### **Services**

1. As a trade friendly measure, it has been decided that GTAs will not be required to file declaration for paying GST under forward charge every year. If they have exercised this option for a particular financial year, they shall be deemed to have exercised it for the next and future financial years unless they file a declaration that they want to revert to reverse charge mechanism (RCM).
2. It has also been decided that the last date of exercising the option by GTAs to pay GST under forward charge shall be 31<sup>st</sup> March of preceding Financial Year instead of 15<sup>th</sup> March. 1<sup>st</sup> January of preceding Financial Year shall be the start date for exercise of option.
3. It has been decided to clarify that services supplied by a director of a company to the company in his private or personal capacity such as supplying services by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by a director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017.
4. It has been decided to clarify that supply of food and beverages in cinema halls is taxable as restaurant service as long as (a) they are supplied by way of or as part of a service and (b) supplied independently of the cinema exhibition service. Where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply

will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

### III. **Second Report of Group of Ministers (GoM) on Casinos, Race Courses and Online Gaming**

A Group of Ministers (GoM) was constituted to look into the issues related to taxation on casinos, horse racing and online gaming. The GoM submitted its first report in June, 2022 and it was placed before the GST Council in its **47th GST Council meeting** wherein, it was decided that the GoM may relook into all the issues once again. The GoM submitted its report and it was placed before the **50th GST Council meeting**. The GoM, in its second report has recommended that since no consensus could be reached on whether the activities of online gaming, horse racing and casinos should be taxed at 28% on the full-face value of bets placed or on the GGR, **the GST Council may decide**. The GST Council has deliberated on the issues and has recommended the following:

- **Suitable amendments to be made to law to include online gaming and horse racing in schedule III as taxable actionable claims.**
- **All three namely Casino, Horse Racing and Online gaming to be taxed at the uniform rate of 28%.**
- **Tax will be applicable on the face value of the chips purchased in the case of casinos, on the full value of the bets placed with bookmaker/totalisator in the case of Horse Racing and on the full value of the bets placed in case of the Online Gaming.**

#### **Measures for facilitation of trade:**

1. **Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2023:** The Council has recommended the Rules governing appointment and conditions of President and Members of the proposed GST Appellate Tribunal **for enabling smooth constitution and functioning of GST Appellate Tribunal**. The Council also recommended that provisions of Finance Act, 2023 pertaining to GST Appellate Tribunal may be notified by the Centre **with effect from 01.08.2023**, so that the same can be brought into operation at the earliest. Further the council has recommended the Chief Secretary of Maharashtra to be nominated as one of the members of the Search cum selection committee as per Section 110(4)(b)(iii) of CGST Act 2017. Regarding the number of State Benches, it was decided to start them in a phase wise manner.
2. **Annual Returns for FY 2022-23:** The Council has recommended that the relaxations provided in FY 2021-22 in respect of various tables of **FORM GSTR-9** and **FORM GSTR-9C** be continued for **FY 2022-23**. Further, for easing compliance burden on smaller taxpayers, exemption from filing of annual return (in **FORM GSTR-9/9A**) for taxpayers having aggregate annual turnover **upto two crore rupees**, to be continued for **FY 2022-23** also.
3. The Council has recommended to **clarify through a circular** that **Input Services Distributor (ISD) mechanism is not mandatory** for distribution of input tax credit of **common input services procured from third parties** to the distinct persons as per the present provisions of GST law, and also to clarify issues regarding taxability of **internally generated services** provided by one distinct person to another distinct person. The Council has also recommended that **amendment may be made in GST law to make ISD mechanism mandatory prospectively** for distribution of input tax credit of such common input services procured from third parties.

4. **Circular to be issued to provide clarity on various issues** pertaining to the GST liability as well as the liability to reverse input tax credit in **cases involving warranty replacement of parts and repair services during warranty period** without any consideration from the customers, clarifying *inter alia* that no GST is chargeable by the manufacturer on such replacement of parts and/ or repair service and also, no reversal of input tax credit is required to be made by the manufacturer.
5. **Circular to be issued to clarify various refund related issues:**
  - a. Consequent to amendment in rule 36(4) of CGST Rules 2017 with effect from 01.01.2022, refund of accumulated input tax credit (ITC) under Section 54(3) of CGST Act, 2017 for a tax period to be restricted to ITC on inward supplies reflected in **FORM GSTR-2B of the said tax period or any previous tax period.**
  - b. Consequent to Explanation having been inserted in rule 89(4) of CGST Rules vide Notification No. 14/2022- CT dated 05.07.2022, the **value of export goods**, to be included while calculating "**adjusted total turnover**" in the formula under rule 89(4), will be determined as per the said explanation.
  - c. Clarification regarding **admissibility of refund** in cases where export of goods, or the realization of payment for export of services, as the case may be, is made after the time limit provided under rule 96A of CGST Rules, 2017.
6. Circular to be issued to provide clarification regarding **TCS liability under Sec 52** of the CGST Act, 2017 in cases where **multiple E-commerce Operators (ECOs)** are involved in a single transaction of supply of goods or services or both.
7. To ease compliance burden of the taxpayers, **clause (f) of rule 46** of CGST Rules, 2017 to amended to provide for requirement of only **name of the State of the recipient**, and not the name and full address of the recipient, on the tax invoice in cases of supply of taxable services by or through an ECO or by a supplier of OIDAR services to an unregistered recipient.
8. **Issuance of the following circulars in order to remove ambiguity and legal disputes on various issues, thus benefiting taxpayers at large:**
  - a. Clarifying that the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, are required to issue **e-invoices** under rule 48(4) of CGST Rules. for the **supplies made to Government Departments** or establishments / Government agencies / local authorities / PSUs, etc., registered solely for the purpose of TDS,
  - b. Clarification regarding the **manner of calculation of interest amount** liable to be paid under section 50(3) of CGST Act, 2017 in respect of wrongly availed and utilized IGST credit, clarifying *inter alia* that in cases of wrong availment of IGST credit, **the balance of input tax credit (ITC) in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be taken in consideration while calculating such interest liability as per rule 88B of CGST Rules, 2017.**
  - c. Clarifying that **mere holding of securities of a subsidiary company by a holding company** cannot be treated as a supply of services and therefore, cannot be taxed under GST.
9. As per the recommendations of the Council in its 48<sup>th</sup> meeting, Circular No. 183/15/2022-GST dated 27<sup>th</sup> December, 2022 was issued to provide for the

procedure for verification of input tax credit in cases involving difference in Input Tax Credit availed in **FORM GSTR-3B** vis a vis that available as per **FORM GSTR-2A** during **FY 2017-18 and 2018-19**. To provide further relief to the taxpayers, the Council recommended for further issuance of a circular to provide for similar procedure for verification of input tax credit in cases involving difference in Input Tax Credit availed in **FORM GSTR-3B** vis a vis that available as per **FORM GSTR-2A** during the period **01.04.2019 to 31.12.2021**.

10. **Special procedure** to be provided under section 148 of CGST Act, 2017 to enable manual filing of appeal against the orders passed by proper officers in respect of TRAN-1/ TRAN-2 claims of the registered persons, filed in pursuance of the directions of Hon'ble Supreme Court in case of the Union of India v/s Filco Trade Centre Pvt. Ltd.
11. **Rule 108(1)** and **rule 109(1)** of CGST Rules, 2017 to be amended to provide for manual filing of appeal under certain specified circumstances.
12. Council recommended to **extend the amnesty schemes** notified vide notifications dated 31.03.2023 regarding non-filers of **FORM GSTR-4, FORM GSTR-9 & FORM GSTR-10** returns, **revocation of cancellation of registration** and **deemed withdrawal of assessment orders** issued under Section 62 of CGST Act, 2017, till **31.08.2023**.
13. In view of the prevailing law and order situation in the State of Manipur, the Council recommended to extend the due dates for filing of **FORM GSTR-1, FORM GSTR-3B** and **FORM GSTR-7** for the months of April, May and June, 2023 for the registered persons of State of Manipur till **31.07.2023**.

#### **Measures for streamlining compliances in GST:**

1. In accordance with the recommendations of **Group of Ministers (GoM) on implementation of E-way bill requirement for movement of Gold/ Precious stones** under chapter 71, the Council has recommended to insert **rule 138F** in CGST Rules, 2017, as well as in SGST Rules, 2017 of the States, who want to mandate the requirement of generation of e-way bills for intra-State movement of gold and precious stones under Chapter 71 within their States.
2. In accordance with the recommendations of the **Group of Ministers (GoM) on Capacity based taxation and Special Composition Scheme** approved by the Council in 49<sup>th</sup> meeting, the Council has made the following recommendations:
  1.
    - i. **issuance of notification under section 148** of CGST Act, 2017 **prescribing a special procedure** to be followed by the manufacturers of tobacco, pan masala & other similar items inter alia for registration of machines and for filing of special monthly returns;
    - ii. **insertion of section 122A** in CGST Act, 2017 providing for **special penalty** for non-registration of machines by such manufacturers;
    - iii. provisions of section 123 of Finance Act, 2021, amending section 16 of IGST Act, to be notified with effect from **01.10.2023** and notification to be issued under section 16(4) of IGST Act, 2017 to provide for restriction of IGST refund route in respect of exports of tobacco, pan masala & other similar items as well as mentha oil.
3. **Amendment in CGST Rules, 2017 regarding registration:** The Council has recommended the following amendments in CGST Rules, 2017 **to strengthen the**

**registration process and to effectively deal with the menace of fake and fraudulent registrations in GST:**

- a. **Amendment in rule 10A** to provide that the details of bank account, in name and PAN of the registered person, to be required to be furnished within 30 days of grant of registration or before filing of statement of outwards supply under section 37 of CGST Act in **FORM GSTR-1/ IFF**, whichever is earlier.
  - b. **Amendment in rule 21A(2A)** to provide for system-based suspension of the registration in respect of such registered persons who do not furnish the details of valid bank account under rule 10A with the time period prescribed under the said rule.
  - c. **Insertion of 3<sup>rd</sup> proviso in rule 21A(4)** to provide for automatic revocation of such system-based suspension upon compliance with provisions of rule 10A.
  - d. **Amendment in rule 59(6)** to provide that where a registered person has not furnished details of a valid bank account under rule 10A, the said registered person may not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using IFF.
  - e. **Amendment in rule 9 and rule 25** to do away with the requirement that the physical verification of business premises is to be conducted in the presence of the applicant and also to provide for physical verification in high risk cases even where Aadhaar has been authenticated.
4. Pilot to be conducted in U.T. of Puducherry for **risk-based biometric-based Aadhaar authentication** of registration applicants. The State of Andhra Pradesh also expressed its intent to join this pilot after the system's readiness is tested in the state of Gujarat and U.T. of Puducherry.
5. **Procedure for Recovery of Tax and Interest in terms of Rule 88C(3)**: On the recommendations of the GST Council in its 48th meeting held on 17.12.2022, rule 88C was inserted in the CGST Rules, 2017 with effect from 26.12.2022 for system based intimation to the registered person in cases where the output tax liability in terms of **FORM GSTR-1** of a registered person for any particular month exceeds the output tax liability disclosed by the said person in the return in **FORM GSTR-3B** for the said month by a specified threshold. The Council has now recommended insertion of **Rule 142B** in the CGST Rules, 2017 and insertion of a **FORM GST DRC-01D** to provide for manner of recovery of the tax and interest in respect of the amount intimated under rule 88C which has not been paid and for which no satisfactory explanation has been furnished by the registered person.
6. **Mechanism to deal with differences in ITC between FORM GSTR-2B and FORM GSTR-3B**: The Council has recommended a mechanism for system-based intimation to the taxpayers in respect of the excess avilment of ITC in **FORM GSTR-3B** vis a vis that made available in **FORM GSTR-2B** above a certain threshold, along with the procedure of auto-compliance on the part of the taxpayers, to explain the reasons for the said difference or take remedial action in respect of such difference. For this purpose, **rule 88D** and **FORM DRC-01C** to be inserted in CGST Rules, 2017, along with an amendment in **rule 59(6)** of CGST Rules, 2017. **This will help in reducing ITC mismatches and misuse of ITC facility in GST.**
7. To improve discipline in filing of annual returns, **FORM GSTR-3A** to be amended to provide for issuance of notice to the registered taxpayers for their failure to furnish Annual Return in **FORM GSTR-9 or FORM GSTR-9A** by due date.

8. **Rule 64** and **FORM GSTR-5A** of CGST Rules, 2017 to be amended to require OIDAR service providers to provide the details of supplies made to registered persons in India in his return in **FORM GSTR-5A**. This will help in tracking due payment of tax on reverse charge basis by such registered persons in India in respect of supplies received from OIDAR service providers.
9. Explanation 3 to be inserted after **rule 43** of CGST Rules, 2017 to prescribe that the value of supply of goods from Duty Free Shops at arrival terminal in international airports to the incoming passengers to be included in the value of exempt supplies for the purpose of reversal of input tax credit.
10. Sub-rule (3A) to be inserted in **rule 162** of CGST Rules, 2017 to prescribe the compounding amount for various offences under section 132 of CGST Act, 2017.
11. The Council has recommended **insertion of rule 163** in CGST Rules, 2017 to provide for manner and conditions of consent-based sharing of information of registered persons available on the common portal with other systems. The Council has also recommended issuance of **a notification under section 158A** of CGST Act, 2017 for notifying "**Account Aggregators**" as the systems with which information is to be shared by the common portal.
12. The Council has recommended **insertion of a clause (ca) in sub-section (1) of section 10 of the IGST Act, 2017** to clarify the place of supply in respect of supply of goods to unregistered persons.
13. The GST Council has recommended to form a **State level coordination Committee** comprising of GST officers from both State and Central GST administrations for knowledge sharing on GST matters and coordinated efforts towards administrative and preventive measures.
14. The 2nd interim report of the **Group of Ministers (GoM) on IT System Reforms** was also discussed by the Council. The GoM has recommended various measures to curb frauds in GST through System based measures for strengthening registration process in GST, more use of third-party data for risk management and controlling flow of fake Input Tax Credit down the supply chain.